

The Background of European Governments

☆ ☆ ☆

Readings and materials
on the organization and
operation of the major
governments of Europe

NORMAN L. HILL

PROFESSOR OF POLITICAL SCIENCE

HAROLD W. STOKES

PROFESSOR OF POLITICAL SCIENCE

AND

DEAN OF THE GRADUATE COLLEGE

THE UNIVERSITY OF NEBRASKA

☆ ☆ ☆

Second Edition

Farrar & Rinehart, Incorporated
Publishers New York



COPYRIGHT, 1935, 1940, BY NORMAN L. HILL
AND HAROLD W. STOKES
PRINTED IN THE UNITED STATES OF AMERICA
BY J. J. LITTLE AND IVES COMPANY, NEW YORK
ALL RIGHTS RESERVED

PREFACE TO THE SECOND EDITION

Political developments in Europe since 1935 have been bewilderingly rapid and disturbing. It has been impossible to know what changes were transitory and superficial and what would leave deep imprints upon political life and institutions. The editors therefore have no great confidence that time will verify their judgment.

Nearly three-quarters of the selections are new. Those which have been retained are, in the main, constitutional materials which have had a permanent influence on subsequent developments. New materials have been selected to illustrate social and economic problems and to show the trend of foreign policies. This appeared justified by the intrinsic importance of these problems, and as a means of informing students of the setting into which formal governmental systems must be fitted.

The editors acknowledge gratefully the helpful suggestions offered by many teachers of government who found the book useful in its first edition. It is hoped that these instructors will find their suggestions satisfactorily embodied in this revision.

Materials released after October 15, 1939, could not, of course, be included in the text.

Lincoln, Nebraska
January, 1940

N L H.
H W S.

PREFACE TO THE FIRST EDITION

The limitations of the textbook method in courses within the field of politics are often felt by students and teachers. No text can supply the need for direct contact with the views of a wide range of authorities, particularly those who have had the benefit of practical political experience, and for a perusal of significant public documents. The use of such sources may do much to anchor students to the realities of government and to encourage among them a deeper and wiser interest in affairs of state.

Students of European governments are dependent to an unusual degree upon the advantages to be gained from extensive reading. Sheer distance from the scene of action predisposes them to look upon institutions and events abstractly and, consequently, with much less interest than they express in an examination of their own government. Moreover, the recent and contemporary experiments in Europe with new forms and methods have brought into the course an element of controversy which requires wide reading if conflicting points of view are to be given a fair hearing.

With this conviction as to the utility of a book of readings and sources, the compilers of this volume have brought together a variety of extracts dealing with the governments of England, France, Germany, Italy, and Russia. The omission of materials relating to the other governments of Europe was due entirely to lack of space and a desire to concentrate on the

countries commonly included in college and university courses

The materials have, in the main, been selected with the student in mind, and with a view to enriching his appreciation of the subject, but it is hoped that instructors and laymen may also find them illuminating. While there must inevitably be some overlapping with the discussions contained in texts on European governments, an effort has been made to avoid unnecessary duplication and to bring in extracts which illustrate the subject matter, present interesting and authoritative points of view, or furnish a documentary foundation for class discussion. It has seemed reasonable to admit some duplication where the subject of discussion is of more than ordinary importance and where an extract has been available from an authority of high repute who can give the student a better understanding than can be obtained from any general text.

The fluidity of European politics has been a problem of some magnitude in making this compilation. Contemporary events cannot be ignored, neither is it possible to dwell on them exclusively without directing attention away from the fundamental principles of government, with ultimate loss to the student. The emphasis of the collection has been, therefore, on the more basic and permanent phases of the European political systems. Contemporary developments have been treated only when they give promise of leaving a deep imprint on the political life of the country.

The publishers of books, learned journals and periodicals have been most generous in extending permissions to use copyrighted materials. Acknowledgment has been made in footnotes of permissions obtained from them.

Much of the material in this collection has already been successfully used in the courses in comparative government offered at the University of Nebraska. The classroom experiences of the editors and of their colleagues, Professor John P. Senning, chairman of the department of political science, Professors L. E. Aylsworth and Lane W. Lancaster, and Dr. David Fellman, have not only convinced us all of the need

for such a volume as this but have also served to guide the selection of its contents

Special assistance given by Professor Richard Hochdoerfer, formerly of the University of Colorado, and by Professor J B Mason of Colorado Woman's College, in the translation of German documents is recorded with much pleasure and appreciation. Other German materials have been made available through the generosity of Professors J K. Pollock and H J Heneman, of the University of Michigan, who have given permission to use a number of documents from their collection entitled *The Hitler Decrees* (Ann Arbor, 1934).

N. L. H.
H. W. S.

Lincoln, Nebraska
January, 1935

CONTENTS

CHAPTER		PAGE
I	THE NATURE OF THE BRITISH CONSTITUTION	3
1	The Spirit of the English Constitution	3
2	The Great Charters as Parts of the Constitution	5
3	The Constitution and the Bill of Rights	10
4	The Principle of Parliamentary Supremacy	12
5	The Statute of Westminster	14
6	The Conventions of the Constitution	18
7	The Constitutional Relations of Lords and Commons	19
8	The Courts and the Constitution—The Osborne Judgment	21
II.	THE MONARCHY IN GREAT BRITAIN	24
9	The Oath of the King	24
10	The Coronation	25
11	What the King Does	28
12	The King as a Political Influence	31
13	The Abdication of Edward VIII	33
	A The Instrument of Abdication	33
	B The Renunciation of the Throne	34
	C The Declaration of Abdication Act	35
	D Proclamation of the Accession of George VI	36
	E Declaration of George VI to the Privy Council	37
14	The Civil List	37
III	THE CABINET	40
15	The Prime Minister	40
16	The Selection of a Cabinet	42
17	The Oath of a Privy Councillor	47

CHAPTER	PAGE
18 The Ministers of the Crown Act	48
19 The Membership of the Cabinet	53
A An Analysis of the Cabinets, 1801-1924	53
B The "Ruling Classes" in the Cabinet, 1938	57
20 The Principle of Cabinet Solidarity	61
21 The Agreement to Differ	63
A Cabinet Statement of the Agreement to Differ, January 22, 1932	64
B Return to Principle of Cabinet Solidarity—A Statement by the Ministers Who Resigned	64
22 Cabinet Solidarity in Practice	66
 IV THE CIVIL SERVICE AND ADMINISTRATION	 68
23 The Administrative Departments	68
A The Foreign Office	68
B The Home Office	70
24 Amateurs as Ministers	73
25 The Routine of a Minister	74
26 The Bureaucracy	78
27 Delegated Legislation	83
A Illustrations of Delegated Legislation	84
B Reasons for Delegating Legislation	84
C Criticism of Delegated Legislation	85
D, Miss Wilkinson's Argument for Extension of the Practice	86
28 An Examination for Administrators	87
29 Aspects of the Civil Service	89
A The Classification of Employees	90
B The Work of the Administrative Class	92
C Rules of Conduct	93
30 Criticisms of the Civil Service	94
 V. THE HOUSE OF LORDS	 97
31. The Granting of Honors	97
32 The Creation of Peerages	100
A A Letter Patent	101
B Peerages Created by Postwar Governments	101
33 Peers as Legislators	102
34 A Defense of the Hereditary Principle	105
35 The Role of the Upper House	106
36 The Parliament Act (1911)	109
37 The Parliament Act in Operation	112
38 Reform Proposals	114
 VI. THE HOUSE OF COMMONS	 116
39. The Composition of the House of Commons	116
40. The Speaker	117

CHAPTER

	PAGE
41 Questions Asked in the House of Commons	120
A Questions for Oral Answer	120
B Written Questions and Answers	122
42. The Spirit of the House of Commons	123
43 His Majesty's Loyal Opposition	127
 VII. LAWMAKING AND FINANCE	 130
44 The Speech from the Throne	130
45 Parliamentary Procedure	133
46 Parliament and Private Legislation	138
A Private Bills in the House of Commons	139
B A Hearing before the Board of Trade	141
47 Private Members' Bills	143
48 The Preparation of the Estimates	145
49 The Budget Summary	147
50. Financial Policies	150
 VIII. PARTIES AND ELECTIONS	 152
51 The Proclamation Dissolving Parliament and Calling a New One	152
52 The Voting List in Great Britain	153
53 An Argument Against Plural Voting	154
54 Recent General Elections	157
55 Making an M P	157
56 The Program of the Conservative Party	161
57 Liberal Policy	164
58 The Labour Party Program	167
 IX THE JUDICIAL SYSTEM	 172
59 The Fountain of Justice	172
60 The Common Law	173
61 The Legal Profession	175
62 The Court System	179
63 The Justice of the Peace Courts	181
64 The Poor Man in the Courts	183
65 The Lords as a Court	186
66 The Judicial Committee of the Privy Council	191
 X. LOCAL GOVERNMENT	 194
67 Administrative Areas of Local Government	194
68 Typical Local Authorities	195
A A County Borough	195
B A Municipal Borough	196
C An Administrative County	197
D An Urban District	198
E A Rural District	198

CHAPTER

	PAGE
69 The County Council	199
A The London County Council	199
B Statutory Committees	200
70 The Aldermen	202
71 Municipal Trading	203
72 Central Control over Local Government	205
A Provisions of the Education Act (1921)	206
B Central Control over Local Borrowing	207
73 London	208
A The Administrative Areas of London	209
B London and Its Government	210
74 An English Criticism of Local Government	213
 XI. POLITICAL AND SOCIAL PROBLEMS	 215
75 The Constitution and Social Economic Change	215
76 Social Security	217
77 Housing	221
78 The Trend of Population	223
79 The Future of Agriculture	225
80 British Trade Problems	229
81 Foreign Policy and National Defense	234
A A Statement of British Policy	235
B On the Propaganda Front	239
C The Compulsory Military Service Act	242

PART II FRANCE

XII. THE FRENCH CONSTITUTION	249
82 The Constitutional Laws	249
83 A French Interpretation of the Constitution	254
84 Amending the Constitution	259
85 Proposals for Constitutional Reform	262
 XIII. THE FRENCH PRESIDENT	 264
86 The Re election of President Lebrun	264
87. The Rôle of the President	268
88 The President and Politics	271
 XIV. THE CABINET AND THE ADMINISTRATIVE SYSTEM	 274
89. "Monsieur le Premier"	274
90. The Personnel of French Cabinets	277

CONTENTS

XV

CHAPTER

PAGE

91	Cabinet Instability	282
	A The Views of M. Doumergue on Cabinet Instability	283
	B The Duration of French Ministries	283
92	Government by the Cabinet	286
	A The Grant of "Full Powers" to the Cabinet	286
	B The Grant of "Full Powers" Extended	287
93	The Dissolution of the Chamber of Deputies	287
	A Report of the Commission on the Reform of the State, 1934	288
	B Senator Maulion's Argument against Dissolution	288
	C The Radical Socialist Position on Dissolution	289
	D The Doumergue Proposal, 1934	289
94	The <i>Fonctionnaire</i>	290
95	The System of Administration	293

XV PARLIAMENT

298

96	The Temperament of the Senate	298
97	The Chamber of Deputies	300
98	The Composition of the Chamber of Deputies	302
	A Party Distribution in the Chamber, 1914-1936	303
	B Results of the 1936 Election	304
99	The Chamber of Deputies at Work	304
100	Interpellations and Questions	306
	A Regulations of the Chamber of Deputies Governing Interpellations and Questions	307
	B Extract from an Interpellation on the Government's Disarmament Policy, October 29, 1932	309
	C Questions Addressed to Ministers	311
101	Parliamentary Control over Finance Legislation	311
	A Rules of the Chamber Relating to the Budget	312
	B A Discussion of the System	312
102	A French Criticism of Parliament	315

XVI PARTIES AND ELECTIONS

318

103	The Psychology of French Politics	318
104	The Organization of the Parties	325
	A Constitution of the Radical Republican and Radical-Socialist Party	326
	B Constitution of the Republican Federation	328

CHAPTER		PAGE
105	Principles and Programs of Representative Parties	330
	A Program of the Republican Federation	330
	B Program of the Democratic Alliance	332
	C Program of the Socialist Party	334
	D Program Voted by the Socialist Congress and Communicated to the Radical Party, May 31, 1932	335
106	Voting in France	336
107	Woman's Suffrage	337
XVII.	THE JUDICIAL SYSTEM	340
108	The Civil Code	340
109	The Organization of the Courts	342
110	The Court of Cassation	342
111	Procedure in Criminal Cases	344
112	The Position of the Judge	346
113	Administrative Jurisprudence	348
	A Typical Administrative Cases Involving State Responsibility	349
	B The Council of State	351
114	A Plea for Judicial Review	352
XVIII.	POLITICAL AND SOCIAL PROBLEMS	355
115	The "New Deal" of the Popular Front	355
	A The Popular Front	356
	B List of the Principal Laws of the "New Deal," 1936	357
	C Representative "New Deal" Legislation	358
116	Finance	361
117	Social Security Legislation	364
118	The Bank of France	366
119	Population Problems	368

PART III. GERMANY

XIX	THE GERMAN REPUBLIC, 1920-1932	373
120	The Establishment of the Republic	373
121	The Weimar Constitution	374
XX	NATIONAL SOCIALISM	385
122	The Twenty five Points	385
123	National Socialist Doctrines	389
124	Adolf Hitler	392

CHAPTER

PAGE

XXI THE GOVERNMENT OF THE THIRD REICH

125	The Constitutional Basis for Dictatorship	396
	A The Enabling Act, March 24, 1933	397
	B Terms of the Extension of the Act, January 30, 1937	397
126	The Leader and Chancellor	397
	A Decree Law of August 2, 1934, Temporarily Merging the Presidency with Hitler's Office	398
	B Hitler's Explanation of His Action to the Reichstag	399
127	The Unification of Party and State	399
128	The Position of the States (<i>Länder</i>)	401
	A The Unification of the German States	401
	B The Law for the Reconstruction of the Reich, January 30, 1934	402
129	Referenda on Laws and Policies (<i>Plebiscites</i>)	403
130	Public Opinion and Political Parties	404
	A Captain Weisz on the Nazi Press	405
	B Decree for the Establishment of a Ministry of Public Enlightenment and Propaganda, March 17, 1933	407
	C Law Concerning the National Culture Chamber, September 26, 1933	408
	D Law Prohibiting the Formation of New Political Parties, July 15, 1933	409
131	Citizenship in the Third Reich	409
	A Law of September 15, 1935	409
	B Decree of November 14, 1935	410
132	The Civil Service	412
133	Local Government	414

XXII. POLITICAL AND ECONOMIC PROBLEMS

134	Racial Doctrines of National Socialism	417
	A A German Justification for Race Legislation	418
	B Law for the Protection of German Blood and Honor, September 15, 1935	418
	C The Refugee Problem	419
	D Anti Jewish Decrees of November 13, 1938	421
135	Church and State in Germany	422
	A Statement of Nazi Religious Policies	423
	B The Views of the Evangelical Church	425
	C Encyclical of Pope Pius XI to the Archbishops and Bishops of Germany, March 14, 1937	427
136	Planned Economy	429

CHAPTER		PAGE
137	Economic Self Sufficiency	432
	A Hitler's Proclamation of the Four Year Plan, September, 1936	432
	B The German Economic Situation	434
138	Labor	439
	A The Labor Service	439
	B The Labor Front	440
	C The Labor Code	442
139	The National Health Program	445
140	Foreign Policies	447
	A The Background of Nazi Foreign Policy	448
	B The German Japanese Anti Communist Agreement, November 25, 1936	450
	C The Annexation of Austria	451
	D The Demand for Colonies	453
141	The Disappearance of Czechoslovakia	455
	A Proclamation of the Reich Protectorate of Bohemia and Moravia	456
	B Treaty between Slovakia and the Reich	459
142	The Polish Corridor and Danzig	461

PART IV ITALY

XXIII	THE FASCIST REGIME	469
143	The March on Rome	469
144	The Philosophy of Fascism	472
145	The Personality of Mussolini	478
146	The Constitutional Position of the Fascist Party	481
XXIV	THE POLITICAL STRUCTURE OF THE ITALIAN GOVERNMENT	484
147	Monarch and Dictator	484
148	"Head of the Government"	487
149	Government by Decree	489
150	The Chamber of Fasci and Corporations	491
151	The Grand Council of the Fascist Party	495
152	Local Government	499
XXV	THE CORPORATIVE STATE	503
153	A Definition of the Corporative State	503
154	The Charter of Labor	504
155	The Corporations Act	509
156	Mussolini on the Corporative State	512

CONTENTS

XIX

CHAPTER

157	The Twenty two Corporations and Their Councils	515
158	The Corporations at Work	517
159	Law Reforming the National Council of Corporations	521

XXVI POLITICAL AND SOCIAL PROBLEMS

160	Public Opinion and Propaganda	523
161	Fascism and the Church	526
	A The Political Treaty	527
	B The Financial Agreement	528
	C The Concordat	528
	D Current Relations of Church and State	529
162	Economic Self Sufficiency	531
163	Agriculture under Fascism	534
164	Foreign Policy	538
	A The Bases of Italian Foreign Policy	538
	B Mussolini on Foreign Affairs	540
	C Mediterranean Interests	543
	D The Demand for Empire	544
165	The Rome Berlin Axis	545

PART V RUSSIA

XXVII THE COMMUNIST STATE

166	The Theoretical Basis of Communism	551
	A The Production of Surplus Value	552
	B The Theory of the Class Struggle	554
167	The Dictatorship of the Proletariat	557
168	Communism and World Revolution	559
	A Duties of the Members of the Communist International	560
	B Manifesto of the Sixth World Congress of the Communist International	564
	C Stalin's Views on World Revolution	567
169	The Retreat from Utopia	571

XXVIII SOVIET POLITICAL ORGANIZATION

170	The Constitution	575
171	The Communist Party and the Soviet Government	590
172	The Russian Electoral Law	591
173	The Supreme Council	596
174	Joseph Stalin—Secretary of the Communist Party	600

CHAPTER	PAGE
XXIX SOCIAL, ECONOMIC AND POLITICAL PROBLEMS	604
175. Economic Planning	604
A The Machinery of Economic Planning	605
B The Gosplan—The Reorganization Decree of February 2, 1938	608
C Industrial Progress under the Five Year Plans	611
176 Agricultural Problems	613
177 Population and Housing	619
178 The Budget of the U S S R. (1937)	622
179 The Purges	625
A The Fate of Party Leaders (1924-38)	625
B A Discussion of the Purges	628
180 Sabotage and the Criminal Law	631
181 Soviet Foreign Policy	634
<hr/>	
XXX EUROPE AT WAR	639
182 The Outbreak of War	639
A Text of German Russian Nonaggression Pact, August 23, 1939	642
B Prime Minister Chamberlain's Announcement to the House of Commons of the Existence of a State of War, September 3, 1939	643
C King George VI Appeals to His Subjects	645
D Premier Daladier to the Chamber of Deputies, September 2, 1939	646
E Chancellor Hitler's Reichstag Speech, September 1, 1939	648
F Italy's Neutrality A Statement by the Council of Ministers, September 2, 1939	653
183 Governmental Adjustments for War	653
A Emergency Powers Act, August 24, 1939	653
B The British War Cabinet	655
C The Ministry of Economic Warfare	656
D British Wartime Income Taxes	657
E German Defense Council	657
F French Law on the General Organization of the Nation in Time of War, July 11, 1938	658
G French Decree on the Control of the Press and Other Publications, August 28, 1939	661
INDEX	663

PART I

GREAT BRITAIN

CHAPTER I

THE NATURE OF THE BRITISH CONSTITUTION

1 THE SPIRIT OF THE ENGLISH CONSTITUTION

THE English Constitution is regarded by political scientists as unique in form and operation. Its subtleties of content and interpretation are subjects of endless discussion. To understand it requires not only a knowledge of political facts, but a capacity for apprehending political realities concealed beneath forms. The English themselves are justifiably proud of their constitution. The following exposition by a famous English statesman is interesting not only as a careful explanation of some distinguishing features of the constitution but also as a revelation of the pride which Englishmen feel in their political institutions (Lord Hugh Cecil, *Conservatism*, 1919, pp 218-22)¹

The Constitution is the greatest contribution that the English people have made to human progress and it bears deeply imprinted upon it their peculiar characteristics. With various degrees of faithfulness it has been copied in every civilised country in the world. Nowhere where civilisation exists is there a land which does not bear traces of its influence. Yet there is nothing cosmopolitan about it. Many countries had estates of the realm, but the way our Parlia-

¹ From the Home University Library. Reprinted here by permission of Thornton Butterworth, Ltd., London.

ment developed is peculiar to the English alone Stamped with our national character and remote from theoretical perfection, had it not been a universal example, it might have been said to be a local aberration So little has it the symmetry and intelligent construction which one would expect in a model, that its most interesting and perhaps its most important feature is its elastic adaptability It would be difficult to name any other human institution which has retained so much external continuity with so much essential change The main outlines of its structure are what they were made by King Edward I more than six hundred years ago in a state of society almost infinitely different To-day the Royal Commissioners give assent to the National Insurance Bill by the words "*Le Roi le veult*," and to the Budget of 1909 by the words "*Le Roi remercie ses bons sujets, accepte leur benevolence et ainsi le veult*," because when Parliament began it was in French that the King naturally spoke And yet this external sameness is only the exterior of a political reality, as different from the constitution of the Plantagenets as two systems of government can easily be Nor has this variation been by any means a steady and simple movement in one direction The limited monarchy of the Plantagenets gave place to the much more despotic system of Edward IV and Henry VIII That despotic monarchy in its turn changed to a new type, where a foreign king and a powerful aristocracy shared authority, and that again gave way to the modern system of a democratic Parliament largely under oligarchic influence And this mixture of democracy and oligarchy has changed and is even now changing its character, and developing we scarcely know in what manner and to what end This adaptability is largely due to the singular power English people have of make-believe Institutions set up on one ground have been maintained on another and justified perhaps upon a third, developments unconscious, almost accidental, have afterwards been treated as masterpieces of human wisdom and defended as founded upon principles which, it may be, none of those who carried them through had ever thought of If any one will read a Constitutional History of England, he will find assumed a sort of constitutional Providence watching over the English people and gifted with a foreknowledge of the perfections which were to be attained in the precise year in which the History was published, guiding Plantagenets and Yorkists, Tudor Parliaments and Puritan rebels, Jacobites and Whigs, sovereigns who could speak nothing but German and

sovereigns who gloned in the name of Briton, to the appointed end,—a Providence who secured that Sir Robert Walpole should be fond of power, that George I should not speak English, that William IV should quarrel with the Tories, that Queen Victoria should be a woman, all in order that things should be precisely what they are. Now all this is really only an effort to explain the constitution as coherent, and therefore to suppose behind it some sort of designing tendency, whereas in fact the true explanation is that the English have a singular power of working institutions of whatever character to suit the political ideas of the time. Very few constitutional developments of importance have been consciously undertaken and deliberately planned. Statesmen and all that complexity of expression which we call public opinion, have worked the political machine as they thought best, pretending, probably quite sincerely, that theirs was the way in which it always had been worked, and then when lapse of time had consecrated their practices into usages, others analysed them into principles and founded on those principles new practices, in like manner to become customary in their turn. The advantages of this national aptitude are doubtless great. The continuity which Burke valued so highly is not broken. Violent changes are made difficult and rare. Men have time to get used to each stage in the movement without their natural conservative instincts suffering a shock. In this respect constitutional development may be said to have been usually made under typical conservative conditions. Even where there has been something of a dislocation, as in the case of the Revolution of 1688, the Reform Act of 1832 and the Parliament Act of 1911, an effort has been made to justify the change by strictly conservative arguments and to represent revolution as being in some sense a reversion to ancient principles.

2. THE GREAT CHARTERS AS PARTS OF THE CONSTITUTION

The elements of the English Constitution most easily identified are the Great Charters. Each of these marked the culmination of a great national crisis and sharply modified subsequent constitutional development. Such were Magna Carta (1215), the Petition of Right (1628), and the Bill of Rights (1689). Sharing the importance of these solemn agreements as parts

of the constitution is a larger number of parliamentary statutes. Among these may be mentioned the Habeas Corpus Act (1679), The Act of Settlement (1701), the Reform Acts (1832), the Supreme Court of Judicature Act (1873), and the Parliament Act (1911). The following extracts from Magna Carta reveal the kinds of safeguards which the barons sought to set up against the arbitrary rule of King John. Many of these pledges of protection to life, liberty, and property are still vital parts of English law (Text from *Translations and Reprints from Original Sources of European History, English Constitutional Documents, Vol. I, Part 6*, edited by Edward P. Cheyney) ¹

John, by the grace of God, king of England, lord of Ireland, duke of Normandy and Aquitaine, count of Anjou, to the archbishops, bishops, abbots, earls, barons, justiciars, foresters, sheriffs, reeves, servants, and all bailiffs and his faithful people greeting

1 In the first place we have granted to God, and by this our present charter confirmed, for us and our heirs forever, that the English church shall be free, and shall hold its rights entire and its liberties uninjured, and we will that it thus be observed, which is shown by this, that the freedom of elections, which is considered to be most important and especially necessary to the English church, we, of our pure and spontaneous will, granted, and by our charter confirmed, before the contest between us and our barons had arisen, and obtained a confirmation of it by the lord Pope Innocent III, which we will observe and which we will shall be observed in good faith by our heirs forever

We have granted moreover to all free men of our kingdom for us and our heirs forever all the liberties written below, to be had and holden by themselves and their heirs from us and our heirs

2 If any of our earls or barons, or others holding from us in chief by military service shall have died, and when he has died his heir shall be of full age and owe relief, he shall have his inheritance by the ancient relief, that is to say, the heir or heirs of an earl for the whole barony of an earl a hundred pounds, the heir or heirs of a baron for a whole barony a hundred pounds, the heir or heirs of a knight, for a whole knight's fee, a hundred shillings at most, and

¹ Reprinted by permission of the University of Pennsylvania Press

who owes less let him give less according to the ancient custom of fiefs

3 If moreover the heir of any one of such shall be under age, and shall be in wardship, when he comes of age he shall have his inheritance without relief and without a fine .

9 Neither we nor our bailiffs will seize any land or rent, for any debt, so long as the chattels of the debtor are sufficient for the payment of the debt, nor shall the pledges of a debtor be distrained so long as the principal debtor himself has enough for the payment of the debt, and if the principal debtor fails in the payment of the debt, not having the wherewithal to pay it, the pledges shall be responsible for the debt, and if they wish, they shall have the lands and the rents of the debtor until they shall have been satisfied for the debt which they have before paid for him, unless the principal debtor shall have shown himself to be quit in that respect towards those pledges

12 No scutage or aid shall be imposed in our kingdom except by the common council of our kingdom, except for the ransoming of our body, for the making of our oldest son a knight, and for once marrying our oldest daughter, and for these purposes it shall be only a reasonable aid, in the same way it shall be done concerning the aids of the city of London

13 And the city of London shall have all its ancient liberties and free customs, as well by land as by water. Moreover, we will and grant that all other cities and boroughs and villages and ports shall have all their liberties and free customs

14 And for holding a common council of the kingdom concerning the assessment of an aid otherwise than in the three cases mentioned above, or concerning the assessment of a scutage we shall cause to be summoned the archbishops, bishops, abbots, earls, and greater barons by our letters individually, and besides we shall cause to be summoned generally, by our sheriffs and bailiffs all those who hold from us in chief, for a certain day, that is at the end of forty days at least, and for a certain place, and in all the letters of that summons, we will express the cause of the summons, and when the summons has thus been given the business shall proceed on the appointed day, on the advice of those who shall be present, even if not all of those who were summoned shall have come

17 The common pleas shall not follow our court, but shall be held in some certain place

18 The recognition of *novel disseisin*, *mort d'ancestor*, and *darrein presentment* shall be held only in their own counties and in this manner we, or if we are outside of the kingdom our principal justiciar, will send two justiciars through each county four times a year, who with four knights of each county, elected by the county, shall hold in the county, and on the day and in the place of the county court, the aforesaid assizes of the county .

20 A free man shall not be fined for a small offence, except in proportion to the measure of the offence, and for a great offence he shall be fined in proportion to the magnitude of the offence, saving his freehold, and a merchant in the same way, saving his merchandise, and the villain shall be fined in the same way, saving his wainage, if he shall be at our mercy, and none of the above fines shall be imposed except by the oaths of honest men of the neighborhood

21 Earls and barons shall only be fined by their peers, and only in proportion to their offence

22 A clergyman shall be fined, like those before mentioned, only in proportion to his lay holding, and not according to the extent of his ecclesiastical benefice

28 No constable or other bailiff of ours shall take any one's grain or other chattels, without immediately paying for them in money, unless he is able to obtain a postponement at the goodwill of the seller

30 No sheriff or bailiff of ours or any one else shall take horses or wagons of any free man for carrying purposes except on the permission of that free man *

31. Neither we nor our bailiffs will take the wood of another man for castles, or for anything else which we are doing, except by the permission of him to whom the wood belongs .

38 No bailiff for the future shall put any one to his law on his simple affirmation, without credible witnesses brought for this purpose

39. No free man shall be taken or imprisoned or dispossessed, or outlawed, or banished, or in any way destroyed, nor will we go upon him, nor send upon him, except by the legal judgment of his peers or by the law of the land

40. To no one will we sell, to no one will we deny, or delay right or justice

41. All merchants shall be safe and secure in going out from Eng-

land and coming into England and remaining and going through England, as well by land as by water, for buying and selling, free from all evil tolls, by the ancient and rightful customs, except in time of war, and if they are of a land at war with us, and if such are found in our land at the beginning of war, they shall be attached without injury to their bodies or goods, until it shall be known from us or from our principal justiciar in what way the merchants of our land are treated who shall be then found in the country which is at war with us, and if ours are safe there, the others shall be safe in our land .

47 All forests which have been afforested in our time shall be disafforested immediately, and so it shall be concerning river banks which in our time have been fenced in

48 All the bad customs concerning forests and warrens and concerning foresters and warreners, sheriffs and their servants, river banks and their guardians shall be inquired into immediately in each county by twelve sworn knights of the same county, who shall be elected by the honest men of the same county, and within forty days after the inquisition has been made, they shall be entirely destroyed by them, never to be restored, provided that we be first informed of it, or our justiciar, if we are not in England

49 We will give back immediately all hostages and charters which have been liberated to us by Englishmen as security for peace or for faithful service

63 Wherefore we will and firmly command that the Church of England shall be free, and that the men in our kingdom shall have and hold all the aforesaid liberties, rights and concessions, well and peaceably, freely and quietly, fully and completely, for themselves and their heirs, from us and our heirs, in all things and places, forever, as before said. It has been sworn, moreover, as well on our part as on the part of the barons, that all these things spoken of above shall be observed in good faith and without any evil intent. Witness the above named and many others. Given by our hand in the meadow which is called Runnymede, between Windsor and Staines, on the fifteenth day of June, in the seventeenth year of our reign

3 THE CONSTITUTION AND THE BILL OF RIGHTS

The Bill of Rights, enacted as a parliamentary statute and agreed to by William and Mary at their accession in 1689, was another great constitutional document. It reaffirmed the rights of English subjects and described the relations between the branches of the government as those relations had been modified by the stirring political struggles of the previous century. These extracts show the nature of the grievances against Charles II and James II before the Revolution of 1688, and indicate parliament's insistence upon a greater share of governmental authority. Most of the revolutionary changes recorded in the Bill of Rights have become an accepted part of the British constitutional pattern. (I William and Mary, st 2, c 2.)

Whereas the said late king James the Second having abdicated the government and the throne being thereby vacant, His Highness the prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the lords spiritual and temporal and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being Protestants, and other letters to the several counties, cities, universities, boroughs and Cinque ports for the choosing of such persons to represent them, as were of right to be sent to parliament, to meet and sit at Westminster upon the two and twentieth day of January in this year one thousand six hundred eighty and eight, in order to such an establishment as that their religion, laws and liberties might not again be in danger of being subverted, upon which letters elections have been accordingly made

And thereupon the said lords spiritual and temporal and commons pursuant to their respective letters and elections being now assembled in a full and free representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare

That the pretended power of suspending of laws or the execution

of laws by regal authority without consent of parliament is illegal

That the pretended power of dispensing with laws or the execution of laws by regal authority as it hath been assumed and exercised of late is illegal

That the commission of erecting the late court of commissioners for ecclesiastical causes and all other commissions and courts of like nature are illegal and pernicious

That the levying money for or to the use of the crown by pretence of prerogative without grant of parliament for a longer time or in other manner than the same is or shall be granted is illegal

That it is the right of the subjects to petition the king and all commitments and prosecutions for such petitioning are illegal

That the raising or keeping a standing army within the kingdom in time of peace unless it be with consent of parliament is against law.

That the subjects which are Protestants may have arms for their defence suitable to their conditions and as allowed by law

That election of members of parliament ought to be free

That the freedom of speech and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament.

That excessive bail ought not to be required nor excessive fines imposed nor cruel and unusual punishments inflicted

That jurors ought to be duly impanelled and returned and jurors which pass upon men in trials for high treason ought to be freeholders.

That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void

And that for redress of all grievances and for the amending, strengthening and preserving of the laws parliaments ought to be held frequently

And they do claim, demand and insist upon all and singular the premises as their undoubted rights and liberties and that no declarations, judgments, doings or proceedings to the prejudice of the people in any of the said premises ought in any wise to be drawn hereafter into consequence or example To which demand of their rights they are particularly encouraged by the declaration of His Highness the prince of Orange as being the only means for obtaining a full redress and remedy therein Having therefore an entire

confidence that His said Highness the prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights and liberties, the said lords spiritual and temporal and commons assembled at Westminster do resolve, that William and Mary, prince and princess of Orange, be and be declared king and queen of England, France and Ireland and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said prince and princess during their lives and the life of the survivor of them, and that the sole and full exercise of the regal power be only in and executed by the said prince of Orange in the names of the said prince and princess during their joint lives, and after their deceases the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said princess, and for default of such issue to the princess Anne of Denmark and the heirs of her body, and for default of such issue to the heirs of the body of the said prince of Orange. And the lords spiritual and temporal and commons do pray the said prince and princess to accept the same accordingly.

Upon which Their said Majesties did accept the crown and royal dignity of the kingdoms of England, France and Ireland and the dominions thereunto belonging, according to the resolution and desire of the said lords and commons, contained in the said declaration. And thereupon Their Majesties were pleased, that the said lords spiritual and temporal and commons being the two houses of parliament should continue to sit, and with Their Majesties' royal concurrence make effectual provisions for the settlement of the religion, laws and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted, to which the lords spiritual and temporal and commons did agree and proceed to act accordingly.

4 THE PRINCIPLE OF PARLIAMENTARY SUPREMACY

Since the adoption of the Bill of Rights in 1689, there has never been serious doubt that the center of gravity of English government has been in parliament. Indeed, it could not be otherwise with parliament asserting and exercising the power to determine even the right of succession to the throne. The

nature of this legal superiority of parliament to every other branch of the government was explained by one of England's most famous jurists, William Blackstone (*Commentaries on the Laws of England*, I, 160-61)

The power and jurisdiction of Parliament, says Sir Edward Coke, is so transcendent and absolute, that it can not be confined, either for causes or persons, within any bounds And of this high court, he adds, it may be truly said, "*si antiquitatem spectes, est vetustissima, si dignitatem, est honoratissima, si jurisdictionem, est capacissima*" It hath sovereign and uncontrollable authority in the making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of laws, concerning matters of all possible denominations, ecclesiastical or temporal, civil, military, maritime, or criminal, this being the place where that absolute despotic power, which must in all governments reside somewhere, is intrusted by the Constitution of these kingdoms All mischiefs and grievances, operations and remedies, that transcend the ordinary course of the laws, are within the reach of this extraordinary tribunal. It can regulate or new-model the succession to the crown, as was done in the reign of Henry VIII and William III It can alter the established religion of the land, as was done in a variety of instances in the reigns of King Henry VIII, and his three children It can change and create afresh even the Constitution of the kingdom, and of Parliaments themselves, as was done by the Act of Union, and the several statutes for triennial and septennial elections It can, in short, do every thing that is not naturally impossible, and therefore some have not scrupled to call its power, by a figure rather too bold, the omnipotence of Parliament True it is, that what the Parliament doth no authority upon earth can undo, so that it is a matter most essential to the liberties of this kingdom, that such members be delegated to this important trust as are most eminent for their probity, their fortitude, and their knowledge, for it was a known apothegm of the great Lord-treasurer Burleigh, "that England could never be ruined but by a Parliament", and, as Sir Matthew Hale observes, this being the highest and greatest court, over which none other can have jurisdiction in the kingdom, if by any means a misgovernment should any way fall upon it, the subjects of this kingdom are left without all manner of remedy.

5. THE STATUTE OF WESTMINSTER

The Statute of Westminster, enacted by parliament in 1931, further illustrates the complexity of the English Constitution. The Statute gives effect to certain resolutions of the Imperial Conferences of 1926 and 1930 concerning the relations of various parts of the Empire to Great Britain. The act provides that the succession and titles of the Crown shall not be altered without the consent of the dominions, that no law of the dominion parliaments may hereafter be held invalid because it conflicts with acts of the British parliament, that appeals to the Judicial Committee of the Privy Council may be taken only with the consent of the highest courts of the dominions, and that the British parliament shall pass no laws applicable to the dominions without their consent. Some of these provisions were already matters of custom, but their enactment in statutory form gives them new constitutional force. Some of the effects of the Statute upon the principle of parliamentary supremacy and upon the constitutional relations of the various parts of the Empire to the United Kingdom itself are still uncertain (22 Geo V, ch. 4, Dec 11, 1931).

Whereas the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the

assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion.

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained

Now, therefore, be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows

1 In this Act the expression "Dominion" means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland

2 (1) The Colonial Laws Validity Act, 1865, shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule, or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule, or regulation in so far as the same is part of the law of the Dominion

3 It is hereby declared and enacted that the Parliament of a

Dominion has full power to make laws having extraterritorial operation

4 No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof

5 Without prejudice to the generality of the foregoing provisions of this Act, sections seven hundred and thirty-five and seven hundred and thirty-six of the Merchant Shipping Act, 1894, shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.

6 Without prejudice to the generality of the foregoing provisions of this Act, section four of the Colonial Courts of Admiralty Act, 1890 (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section seven of that Act as requires the approval of His Majesty in Council to any rules of Court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act

7 (1) Nothing in this Act shall be deemed to apply to the repeal, amendment, or alteration of the British North America Acts, 1867 to 1930, or any order, rule, or regulation made thereunder

(2) The provisions of section two of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces

(3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively

8. Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act

9. (1) Nothing in this Act shall be deemed to authorize the

Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia

(2) Nothing in this Act shall be deemed to require the concurrence of the Parliament or Government of the Commonwealth of Australia in any law made by the Parliament of the United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence

(3) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section four shall mean the request and consent of the Parliament and Government of the Commonwealth

10 (1) None of the following sections of this Act, that is to say, sections 2, 3, 4, 5, and 6, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion, and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section of this Act

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand, and Newfoundland

11 Notwithstanding anything in the Interpretation Act, 1889, the expression "Colony" shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion

12 (1) This Act may be cited as the Statute of Westminster, 1931

(2) This Act shall come into operation on the first day of December, nineteen hundred and thirty-one

6 THE CONVENTIONS OF THE CONSTITUTION

One of the most important elements of the English Constitution consists of a body of custom and usage known as "conventions" These conventions are created not by law but by practice, yet upon them depends the operation, in fact, the very existence, of some of the most important parts of the English government Observance of these conventions is just as essential to the continued existence of the constitution as is observance of the "law." The following list of conventions, formulated by Professor A. V. Dicey, reveals how indispensable a part of the constitution they are. (*The Law of the Constitution*, 7th ed., 1908, pp. 416-17.) ¹

1. A Ministry which is outvoted in the House of Commons is in many cases bound to retire from office.

2. A Cabinet, when outvoted on any vital question, may appeal once to the country by means of a dissolution

3. If an appeal to the electors goes against the Ministry they are bound to retire from office, and have no right to dissolve Parliament a second time

4. The Cabinet are responsible to Parliament as a body, for the general conduct of affairs

5. They are further responsible to an extent, not however very definitely fixed, for the appointments made by any of their number, or to speak in more accurate language, made by the Crown under the advice of any member of the Cabinet.

✓6. The party who for the time being command a majority in the House of Commons, have (in general) a right to have their leaders placed in office

✓7. The most influential of these leaders ought (generally speaking) to be the Premier, or head of the Cabinet.

8. Treaties can be made without the necessity for any Act of Parliament, but the Crown, or in reality the Ministry representing the Crown, ought not to make any treaty which will not command the approbation of Parliament

9. The foreign policy of the country, the proclamation of war,

¹ Reprinted by permission of The Macmillan Company

and the making of peace ought to be left in the hands of the Crown, or in truth of the Crown's servants. But in foreign as in domestic affairs, the wish of the two Houses of Parliament or (when they differ) of the House of Commons ought to be followed

10. The action of any Ministry would be highly unconstitutional if it should involve the proclamation of war, or the making of peace, in defiance of the wishes of the House.

11. Parliament ought to be summoned for the despatch of business at least once in every year

7. THE CONSTITUTIONAL RELATIONS OF LORDS AND COMMONS

At times it becomes difficult to determine just which of the constitutional conventions should control a particular political situation. Conventions are founded on precedents and precedents are not easily interpreted, nor do all precedents result in the establishment of conventions. Political differences may, therefore, arise as readily over the interpretation of a convention of the constitution as over any other element. The following incident is an illustration of this fact. In 1909 the House of Lords voted down the radical Lloyd-George budget. Mr. Asquith, then Prime Minister, regarded this action as a breach of the constitution. His argument was that a constitutional convention, or "understanding," had evolved which had made the House of Commons exclusively responsible for finance measures. It was the failure of the House of Lords to accept this conventional interpretation of its role which led eventually to the passage of the Parliament Act of 1911. (*Parliamentary Debates*, 5th Series, XIII, 1910, 551 ff.)

No, mine is a totally different purpose. It is to ask the House, in vindication of the first principles of the Constitution, and in assertion of its own immemorial rights, to enter a prompt and solemn protest against the whole proceeding. We live in this country, and we have lived for centuries past, under an unwritten Constitution, although some signs in the sky would seem to portend

that that happy state of things is not likely long to last. It is, of course, true that we have upon the Statute book great instruments like Magna Carta itself, the Petition of Right and the Bill of Rights, which define and secure many of our rights and privileges, but the great bulk of our constitutional liberties—and, I would add, of our constitutional practices—do not derive their validity and sanction from any Bill which has received the formal assent of King, Lords and Commons. They rest upon usage, upon custom, upon convention—often of slow growth, in their early stages, not always uniform, but which in the course of time have received universal observance and respect, and let me point out further, it is an essential incident of such an unwritten Constitution that there should be powers which are legal powers—legal powers in the sense that their exercise cannot be questioned in any court of law, yet which, in the course of time, and by the effect of such usages as I have described, first of all came to be fitfully and intermittently used, and finally in the progress of our development became dormant, moribund, and for all practical purposes dead.

A familiar illustration of this, well known to everybody, is the Veto of the Crown. There is nothing whatever to prevent me or any other Minister from advising His Majesty to-morrow to refuse his assent to a Bill which has passed through both the House of Commons and the House of Lords; and, if His Majesty were to take that advice, and so refuse his assent, that Bill could not take its place on the Statute book, and would not have its effect in law. I think, however, the Minister who gave that advice would deserve to be impeached, although, in point of law, the right of the Crown to veto a Bill is just as unquestionable to-day as it was in the time of Queen Elizabeth. But 200 years of disuetude and contrary practice have made it a legal right not constitutionally exercised or followed now. I saw a speech the other day—I think by the Member for East Worcestershire (Mr Austen Chamberlain)—in which he denied the distinction which my Noble and learned Friend the Lord Chancellor had drawn between that which is legal and that which is constitutional, and said that the antiquarianism and the pedantry of lawyers left him quite cold. It was pedantry of this kind—the pedantry which realises and dwells upon the distinction between the genius and the spirit of our Constitution on the one side, and the bare and barren letter of the law upon the other—it was pedantry of this kind which made and saved the liberties of

England It was pedants, like Pym and Seldon and Somers, who rescued this House largely through the power of the purse from the domination of the Crown We need not be ashamed to bear the same reproach if, acting in the same spirit and using largely the same weapons, we put an end to the usurpations of the House of Lords

Tried by the test which I have been endeavouring to describe—the test of usage, the test of convention, the test of unbroken understanding, does not the recent action of the House of Lords in rejecting the Finance Bill deserve the description which I have given to it in my Resolution? Is it not a breach of the Constitution?

The House of Lords have deliberately chosen their ground They have elected to set at nought in regard to finance the unwritten and time-honoured conventions of our Constitution In so doing, whether they foresaw it or not, they have opened out a wider and a more far-reaching issue We have not provoked the challenge, but we welcome it We believe that the first principles of representative government, as embodied in our slow and ordered but ever-broadening constitutional development, are at stake, and we ask the House of Commons by this Resolution to day, as at the earliest possible moment we shall ask the constituencies of the country, to declare that the organ, the voice of the free people of this country, is to be found in the elective representatives of the nation

8 THE COURTS AND THE CONSTITUTION—THE OSBORNE JUDGMENT

The courts in Great Britain have a part to play in the formation of the constitution This they do by making decisions which stand as parts of the constitution or by interpretations which compel parliament to change the constitution by statute The case of *Amalgamated Society of Railway Servants v Osborne* [(1910) A C 87] brings out, among other things, the constitutional relation between members of parliament and their constituents Prior to 1911 members of parliament were unpaid This placed candidates from the laboring classes under a severe handicap. The above-mentioned trade union, of which

Osborne was a member, had, under its rules, levied forced contributions from the plaintiff and its other members for the payment of salaries or maintenance allowances to members of parliament. The members of parliament who received this payment were pledged to observe and fulfill the conditions imposed by the constitution of the Labour party and to be subject to their whip. Osborne applied to the court for a declaration that those forced levies by the Society were *ultra vires* and void. The Court of Appeal held that he was entitled to this declaration. The Society appealed.

Lord Shaw of Dunfermline in his judgment in the House of Lords said.

"The objects for which such contributions are imposed must, if this Court is to reverse the decision of the Court below, be firstly, within the expressed or implied scope of the objects of the Union, and secondly, within the law; that is to say, for purposes which are not of themselves illegal, unconstitutional or contrary to public policy.

"In brief, my opinion is that the rule of the Society that 'all candidates shall sign and respect the conditions of the Labour Party and be subject to their whip,' the rule that candidates are to be 'responsible to and paid by the Society,' and, in particular, the provision in the constitution of the Labour Party that 'candidates and members must accept this constitution, and agree to abide by the decision of the Parliamentary party in carrying out the aims of the constitution,' are all fundamentally illegal, because they are in violation of the sound public policy which is essential to the working of representative government.

"Parliament is summoned by the Sovereign to advise His Majesty freely. By the nature of the case it is implied that coercion, restraint or money payment, which is the price of voting at the bidding of others, destroys and imperils that function of freedom of advice which is fundamental in the very constitution of Parliament.

"Further the pledge is an unconstitutional and unwarrantable interference with the rights of the constituencies of the United Kingdom . . . It is a fundamental rule that the electors are to be free from coercion, constraint, or corrupt influence; and it is

they, acting through their majority, and not any outside body having money power, that are charged with the election of a representative . Further, in regard to the member of Parliament himself, he, too, is to be free, he is not the paid mandatory of any man or any organization of men, nor is he entitled to bind himself to subordinate his opinion on public questions to others, for wages, or at the peril of pecuniary loss, and any contract of this character would not be recognized by a court of law, either for its enforcement or for its breach " (Order of Court of Appeal affirmed.)

CHAPTER II

THE MONARCHY

IN GREAT BRITAIN

9 THE OATH OF THE KING

THE oath taken by the king contains several indications of his legal and traditional status. His duty to govern constitutionally is strongly emphasized. The pledge which he takes relating to the Church suggests his nominal position as "Defender of the Faith" or head of the Church of England. That the king is at least theoretically the "Fountain of Justice" is clearly implied in his agreement to execute justice in his judgments. The interest of the dominions and colonies in the position of the monarch is also brought out. This oath is administered by the Archbishop of Canterbury during the course of the coronation ceremony. George VI subscribed to it on May 12, 1937, in exactly the form given below.

ARCHBISHOP. Will you solemnly promise and swear to govern the peoples of Great Britain, Ireland, Canada, Australia, New Zealand and the Union of South Africa, of your Possessions and the other Territories to any of them belonging or pertaining, and of your Empire of India, according to their respective laws and customs?

KING. I solemnly promise so to do.

ARCHBISHOP. Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgments?

KING. I will.

ARCHBISHOP Will you to the utmost of your power maintain the Laws of God and the true profession of the Gospel? Will you to the utmost of your power maintain in the United Kingdom the Protestant Reformed Religion established by law? And will you maintain and preserve inviolably the settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as by law established in England? And will you preserve unto the Bishops and Clergy of England, and to the Churches there committed to their charge, all such rights and privileges, as by law do or shall appertain to them, or any of them?

KING All this I promise to do

The things which I have here before promised, I will perform, and keep So help me God.

10 THE CORONATION

The king is the center of the many state ceremonies for which England is famous. It is not surprising, therefore, that his coronation should be the most splendid and pompous of them all, attended by representatives from the principal parts of the Empire and from most of the nations of the world. The ceremony is an inheritance of the centuries, each rite bearing significance as to the king's person or position, and indicative of royal qualities such as mercy, strength in action, and dignity (P. W. Wilson, "Tradition Guides British Coronation Rites," *The New York Times*, May 9, 1935, E p 5)¹

The Sovereign arrives at the Abbey, already a King. His head is therefore covered, but only with the red velvet and Ermine Cap of Estate. He wears a cape of ermine and his robe is red. Across his shoulders shines the elaborate collar of the Garter, and the Garter is seen on his left knee. The King and Queen sit on ordinary "Chairs of Estate," not described as thrones but set on floor level.

The Recognition Bareheaded for a moment, the King stands and faces East, South, West and North. At each quarter of the compass there are cries of "God Save King George," led by boys of Westminster School high in the arcade of the roof. This procedure

¹ Reprinted by permission of *The New York Times*

recalls the Saxon custom of electing kings before the Norman conquest

The Oath. The form now includes a pledge to the Dominions and India as well as Great Britain. Not only does the King give his "promise" to govern according to "laws and customs", he proceeds to the altar and again removes his Cap of Estate, while swearing the oath with his right hand on the Bible.

The Dis-Robing. The King rises from his chair. His Cap of Estate is removed finally from his head, also his robe of crimson and ermine, with the collar of the Garter. He thus appears in a crimson tunic reaching nearly to the knees with white silk breeches and stockings and plain black court shoes.

The Anointing. Four Knights of the Garter support a rich pall of silk above the King. The Dean of Westminster holds in one hand a golden vessel designed as an Eagle with outstretched wings, curiously like the American Eagle and known as the Ampulla. Its origin is lost in antiquity and equally ancient is the golden spoon worn thin with cleaning, that the Dean holds in the other hand. He pours oil from the Ampulla into the spoon and the Archbishop of Canterbury anoints the King with the sign of the cross on his head—the seat of reason, his breast—the seat of the affection, and the palms of his hands. In early times, the feet also were anointed. The custom can be traced back to the Old Testament and it signifies that the King receives spiritual grace. The Ampulla and spoon, like all the regalia used in the coronation, are brought from the altar by the clergy.

The Vestments. The King is arrayed, first, in the colobium sindonis, a fine white surplice without sleeves which signifies that his is a sacred as well as a secular office. Next he puts on the super-tunica, a close fitting coat with rich golden sleeves. It has a girdle whence may hang a sword. A stole familiar as an ecclesiastical vestment is set around the King's neck. Finally, there is the gorgeous pallium or golden robe with a train.

The Spurs. These are of gold and are set for a moment ritually at the King's feet. They signify that he is a knight and thus dedicated to chivalry (a word derived from the French *cheval*, a horse). The King can ride forth to battle.

The Swords. The ritual is here very complicated. The King enters the Abbey accompanied by four swords, including a Sword of State, carried near him, which means that he has been already

exercising secular authority. The Sword of State is surrendered to the clergy and placed on the altar. A jeweled sword in a scabbard of purple velvet is substituted. It was made for George IV at a cost of £6,000 and is said to be the most valuable sword in the world. With this second sword the King is armed. He unarms himself and hands back the sword, which is then placed on the altar.

A peer then redeems or buys back the sword from the clergy for a payment of 100 shillings—symbolic of finance—and this peer, drawing the jeweled sword from its scabbard, carries it “naked before His Majesty during the rest of the solemnity.” Among the other swords is the so-called *curtana*. Its point is blunted and it is regarded as the sword of mercy—symbol of the King’s prerogative of pardon. Also, there is a sword of Spiritual Justice.

The Bracelets. These are provided in the regalia for the King’s wrists and are known as the *armillae*. They signify strength in action.

The Orb. This is a globe of gold surmounted by a jeweled cross, which, according to the Archbishop’s “exhortation,” signifies “that the whole world is subject to the power and empire of Christ our Redeemer.”

The Ring. The coronation ring is set on the fourth finger of the right hand, and it signifies dedication to kingly dignity. It was made for William IV and was used by Edward VII and George V. It consists of five rubies set as the Cross of St. George on a sapphire significant of the ground of the Cross of St. Andrew.

The Glove. This is presented by the Lord of the Manor of Work-sop, so illustrating the honor of making a gift to the King. This Lord may support the King’s right arm—another honor, namely, rendering service to His Majesty.

The Scepters. These signify prerogative. There are two of these—the scepter of the cross for the King’s right hand, signifying power and justice. This contains the largest Cullinan diamond. There is also the scepter of the dove for the King’s left hand, signifying mercy.

The Crown. This is the symbol of ultimate authority. As such, the Crown appears on stamps, coins, uniforms and in terms like “Ministers of the Crown,” “demise of the Crown” (when a sovereign dies) and action taken by “the Crown” in the courts of law against offenders. The intersecting arches in crowns signify that the King’s sovereignty is independent of all other authority.

The weight is just over two and one-half pounds. The Archbishop of Canterbury crowns the King, who then receives a Bible as "the royal law."

The Coronets. With the crowning of the King, peers put on their coronets, thereby acknowledging that their dignity is derived from his. Each order of peer—duke, marquess, earl, viscount and baron—has its own type of coronet.

The Throne. The King when crowned is led to a raised throne. Here he receives the homage of Archbishops, Bishops, Princes of the Blood and other peers.

11 WHAT THE KING DOES

What does the king do? Which of the powers belonging to the Crown actually belong to him? May he do anything on his own initiative, or is he merely a constitutional automaton? These are difficult questions to answer for the answers depend upon factors which are constantly fluctuating. The personalities of the king and of his ministers, the temper of the times, the opinions of the masses all serve to narrow or broaden the work of the king and affect the weight of his influence. Yet the king always performs—sometimes very actively, sometimes passively—a number of functions which can be classified as executive and political, representative and ceremonial, and private and personal. The following account describes the important but rarely publicized occupations of the English king (Geoffrey Dennis, *Coronation Commentary*, 1937, pp. 109-19).¹

The King can still influence policy. He can confidentially press a policy upon his Prime Minister, seek to dissuade him from another, delay the execution of a third. George V required that second general election before he would give his consent to the creation of the Parliament Bill peers. If there is no single clear instance of any of Victoria's governments, still less a government of any of her successors, changing an important item in their programme to suit the monarch's personal taste, yet the Queen was not power-

¹ Used by permission of Dodd, Mead & Company, Inc., New York. Copyright, 1937, by Dodd Mead & Company, Inc.

less She was a permanent brake on (spoke in the wheel of) half her ministries. The Liberal ones

When the party called to power has no undisputed leader, the King still has a say in choosing the Prime Minister Victoria sent for Rosebery in preference to Harcourt George V had a word in the selection of Baldwin in preference to Curzon, perhaps a big word in the replacement of Ramsay Labour by Ramsay National

He has not quite lost the power of appointing, or at least successfully suggesting to the Prime Minister, individual members of the Cabinet Balfour brought in some ministers on Edward VII's recommendation, Campbell-Bannerman at least one minister How far, since then, the King has had a hand in Cabinet-making is not accurately known As late as Edward VII he was believed to be influential, if he desired to be, in the choice of the Foreign Minister and the War Minister in particular .

How does the King perform his business of State?

In the first place by oral communication, interviews with—audiences granted to—his Prime Minister and the other ministers

Queen Victoria, of course, worked chiefly by correspondence, that famous correspondence, the most interesting in royal records, and wrote, and underlined, more words than any other monarch in the history of the world

Ministers to whom the letters were addressed may sometimes have judged them less favourably For they were inexorable, they were perpetual Her authority had to be sought, and the Minister's reasons set forth at length and in writing, before any important step could be taken The principal foreign despatches were written about line by line It was irritating for the Minister, who regarded himself as the true sovereign, but there it was There She was

The staying and delaying that Victoria's existence involved was probably, in the great majority of cases, a good thing A Prime Minister could bully his colleagues, he had to think out, and carefully and patiently and politely explain, the reason for his proposed action to the one person in the world who could, and did, bully him It was probably a good thing It made for clarity and, in foreign affairs, for safety

Edward VII, no penman, did not show the same exclusive preference for his mother's method He used, each in reasonable measure, the pen, the personal audience, the telephone and that increasingly important and hard-worked official and go-between, the royal

Private Secretary Letters to Edward VII from the Prime Minister, the Foreign Secretary, or the Minister for War were still always in their own hand. He wrote on them "Appd E R" or "Seen E R" If he disagreed, or had suggestions to make, he jotted down his views, which the Private Secretary re-drafted—possibly bowdlerized—and sent back to the Minister

George V's Prime Ministers, apparently, did not either see or write to him fully on most questions One or two of them treated him to the extent they dared, and that was possible, as the figure-head, Duke of Venice, or rubber stamp of their ideal But in Parliament Bill days, and around the outbreak of the War, Asquith and his King were in continuous communication, oral and written. And at the end of the reign, when George had a firmer hand on things, audiences became more frequent again and correspondence more important.

The King has business to transact with other principal men in the State besides the Cabinet ministers—with Officers of the Household, officers of the army and navy, ambassadors, prelates, with high officials of the government departments

Affairs and the world grow ever more complicated The King's, like the Prime Minister's, familiarity with each separate department must inevitably grow less, and be confined to proportionately fewer aspects Take the Foreign Office George V's relation with this, the most traditionally royal Department of State, seems to have been confined to the following. He saw some despatches, and perhaps most of the very important ones, occasionally he suggested a change All appointments of ambassadors, ministers, and counsellors (though not of even the highest Foreign Office officials) were submitted to him. The submissions were pretty well formal, except that for a few particular nominations, for example, to the Scandinavian Courts where the Royal Family has kinship, His Majesty's pleasure was genuinely taken Proposals for orders and decorations went to the Palace always In addition to the Secretary of State, the King occasionally received the highest officials This, no doubt, was less than his father had had to do with that particular department; George, unlike Edward, was not more interested in the Foreign Office, or in the War Office, than in the other ministries. The ruler of the greatest empire in history never once set foot in his Department of War during the greatest war in history

His work, of course, is done mainly at the Palace. There he gives audience; there he reads the innumerable papers of all sorts that he still must read, there he finds time, as best he may, to reflect about what he hears and reads.

Much mere signing is still a royal burden—glorified clerical work. There is less of it than there was. If the Royal Sign Manual is still required for the most important executive acts, of more trivial papers the sovereign's pen has gradually been relieved. Queen Victoria signed over 60,000 documents a year, George V not a hundred a day.

12 THE KING AS A POLITICAL INFLUENCE

It is a popular impression in countries outside the British Empire that the king in Great Britain has become a political figurehead. It is, of course, true that many powers formerly belonging to the monarch have been transferred to other officials and to parliament. It may be doubted whether the king has retained any significant legal powers which might actually be exercised solely on his own initiative. Yet it is perfectly understood in England that the monarchy is one of the strongest, although one of the most subtle, forces in British politics. How the monarchy has lost its legal powers and yet has retained its influence is clearly explained by Walter Bagehot, a brilliant English essayist of the last century (W. Bagehot, *The English Constitution*, pp. 143-50).¹

To state the matter shortly, the sovereign has, under a constitutional monarchy such as ours, three rights, the right to be consulted, the right to encourage, the right to warn, and a king of great sense and sagacity would want no others,—he would find that his having no others would enable him to use these with singular effect. He would say to his minister, "The responsibility of these measures is upon you, whatever you think best must be done, whatever you think best shall have my full and effectual support. But you will observe that for this reason and that reason, what you propose to do is bad, for this reason and that reason, what you do

¹ Reprinted by permission of D. Appleton-Century Company, Inc., New York.

not propose is better I do not oppose—it is my duty not to oppose, but observe that I warn” Supposing the king to be right, and to have—what kings often have—the gift of effectual expression, he could not help moving his minister He might not always turn his course, but he would always trouble his mind

In the course of a long reign, a sagacious king would acquire an experience with which few ministers could contend The king could say, “Have you referred to the transactions which happened during such and such an administration, I think about fourteen years ago? They afford an instructive example of the bad results which are sure to attend the policy which you propose. You did not at that time take so prominent a part in public life as you now do, and it is possible you do not fully remember all the events. I should recommend you to recur to them, and to discuss them with your older colleagues who took part in them It is unwise to recommence a policy which so lately worked so ill” . By years of discussion with ministry after ministry, the best plans of the wisest king would certainly be adopted, and the inferior plans, the impracticable plans, rooted out and rejected He could not be uselessly beyond his time, for he would have been obliged to convince the representatives—the characteristic men—of his time He would have the best means of proving that he was right on all new and strange matters, for he would have won to his side, probably, after years of discussion, the chosen agents of the commonplace world,—men who were where they were because they had pleased the men of the existing age, who will never be much disposed to new conceptions or profound thoughts A sagacious and original constitutional monarch might go to his grave in peace if any man could: he would know that his best laws were in harmony with his age, that they suited the people who were to work them, the people who were to be benefited by them. And he would have passed a happy life, he would have passed a life in which he could always get his arguments heard, in which he could always make those who had the responsibility of action think of them before they acted, in which he could know that the schemes which he had set at work in the world were not the casual accidents of an individual idiosyncrasy, which are mostly much wrong, but the likeliest of all things to be right,—the ideas of one very intelligent man at last accepted and acted on by the ordinary intelligent many.

13 THE ABDICATION OF EDWARD VIII

The circumstances surrounding the abdication of Edward VIII in December, 1936, are well known. His projected marriage aroused the opposition of the government, which found itself supported by influential groups who felt that the prestige of the monarchy would be greatly impaired by the marriage. Prime Minister Baldwin made it clear to the king that he must forsake his plans or abdicate. Edward suggested that he be allowed to marry with the understanding that his wife would not take the title of queen, but the government was unwilling to recommend a statute to this effect. Consequently the king abdicated. Owing to the provisions of the Statute of Westminster (1931), the Dominions were consulted in the enactment of a new act of succession to the throne. The main documents relating to the abdication follow. They provide an admirable comment on the constitutional position of the king, and upon the relationship of parliament to the throne.

A. THE INSTRUMENT OF ABDICATION

I, Edward the Eighth of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Emperor of India, do hereby declare My irrevocable determination to renounce the Throne for Myself and for My descendants and My desire that effect should be given to this Instrument of Abdication immediately.

In token whereof I have hereunto set My hand this tenth day of December, nineteen hundred and thirty-six, in the presence of the witnesses whose signatures are subscribed

EDWARD R. I.

Signed at Fort Belvedere
in the presence of

Albert
Henry
George

B THE RENUNCIATION OF THE THRONE

The PRIME MINISTER (Mr Baldwin) at the Bar, acquainted the House that he had a Message from His Majesty the King to this House, signed by His Majesty's own hand And he presented the same to the House, and it was read out by Mr SPEAKER as followeth, all the Members of the House being uncovered.

Fort Belvedere,
Sunningdale,
Berkshire.

MEMBERS OF THE HOUSE OF COMMONS,

After long and anxious consideration, I have determined to renounce the Throne to which I succeeded on the death of My father, and I am now communicating this, My final and irrevocable decision Realising as I do the gravity of this step, I can only hope that I shall have the understanding of My peoples in the decision I have taken and the reasons which have led Me to take it. I will not enter now into My private feelings, but I would beg that it should be remembered that the burden which constantly rests upon the shoulders of a Sovereign is so heavy that it can only be borne in circumstances different from those in which I now find Myself. I conceive that I am not overlooking the duty that rests on Me to place in the forefront the public interest, when I declare that I am conscious that I can no longer discharge this heavy task with efficiency or with satisfaction to Myself.

I have accordingly this morning executed an Instrument of Abdication in the terms following.—

"I, Edward VIII, of Great Britain, Ireland, and the British Dominions beyond the Seas, King, Emperor of India, do hereby declare My irrevocable determination to renounce the Throne for Myself and for My descendants, and My desire that effect should be given to this Instrument of Abdication immediately.

In token whereof I have hereunto set My hand this tenth day of December, nineteen hundred and thirty-six, in the presence of the witnesses whose signatures are subscribed.

(Signed) EDWARD R.I."

My execution of this Instrument has been witnessed by My three brothers, Their Royal Highnesses the Duke of York, the Duke of Gloucester and the Duke of Kent

I deeply appreciate the spirit which has actuated the appeals which have been made to Me to take a different decision, and I have, before reaching My final determination, most fully pondered over them. But My mind is made up. Moreover, further delay cannot but be most injurious to the peoples whom I have tried to serve as Prince of Wales and as King and whose future happiness and prosperity are the constant wish of My heart.

I take My leave of them in the confident hope that the course which I have thought it right to follow is that which is best for the stability of the Throne and Empire and the happiness of My peoples. I am deeply sensible of the consideration which they have always extended to Me both before and after My accession to the Throne and which I know they will extend in full measure to My successor.

I am most anxious that there should be no delay of any kind in giving effect to the Instrument which I have executed and that all necessary steps should be taken immediately to secure that My lawful successor, My brother, His Royal Highness the Duke of York, should ascend the Throne.

EDWARD R. I.

C. A BILL TO GIVE EFFECT TO HIS MAJESTY'S DECLARATION OF ABDICATION

Whereas His Majesty by His Royal Message of the tenth day of December of this present year has been pleased to declare that He is irrevocably determined to renounce the Throne for Himself and His descendants, and has for that purpose executed the Instrument of Abdication, set out in the Schedule to this Act, and has signified His desire that effect thereto should be given immediately,

And whereas, following upon the communication to His Majesty's Dominion of His Majesty's said declaration and desire, the Dominion of Canada pursuant to the provisions of section four of the Statue of Westminster, 1931, has requested and consented to the enactment of this Act, and the Commonwealth of Australia,

the Dominion of New Zealand, and the Union of South Africa have assented thereto,

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lord's Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows —1 —(1) Immediately upon the Royal assent being signified to this Act the Instrument of Abdication executed by His present Majesty on the tenth day of December, nineteen hundred and thirty-six, set out in the schedule of this Act, shall have effect, and thereupon His Majesty shall cease to be King, and there shall be a demise of the Crown, and accordingly the member of the Royal Family then next in succession to the Throne shall succeed thereto and to all the rights, privileges, and dignities thereunto belonging.

(2) His Majesty, His issue, if any and the descendants of that issue, shall not after His Majesty's abdication have any right, title or interest in or to the succession to the Throne, and section one of the Act of Settlement shall be construed accordingly

(3) The Royal Marriage Act, 1772, shall not apply to His Majesty or the descendants of that issue

2 —This act may be cited as His Majesty's Declaration of Abdication Act, 1936

D. PROCLAMATION OF THE ACCESSION OF GEORGE VI

Whereas by an Instrument of Abdication dated the tenth day of December instant His former Majesty King Edward the Eighth did declare his irrevocable determination to renounce the Throne for Himself and His Descendants, and the said Instrument of Abdication has now taken effect, whereby the Imperial Crown of Great Britain, Ireland and all other of His former Majesty's dominions is now solely and rightfully come to the High and Mighty Prince Albert Frederick Arthur George We, therefore, the Lords Spiritual and Temporal of this Realm, being here assisted with these of His former Majesty's Privy Council, with Numbers of the Principal Gentlemen of Quality, with the Lord Mayor, Aldermen and Citizens of London do now hereby with one Voice and Consent of Tongue and Heart, publish and proclaim, That the High and Mighty Prince Albert Frederick Arthur George is now become our only lawful and rightful Liege Lord George the Sixth

by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India To whom we do acknowledge all Faith and Obedience with all hearty and humble affection beseeching God, by whom Kings and Queens do reign, to bless the Royal Prince George the Sixth with long and happy years to reign over us

Given at St James Palace the Twelfth day of December in the year of our Lord one thousand nine hundred and thirty-six

E DECLARATION OF GEORGE VI TO THE PRIVY COUNCIL ON HIS ACCESSION TO THE THRONE

Your Royal Highnesses, My Lords and Gentlemen

I meet you today in circumstances which are without parallel in the history of our Country Now that the duties of Sovereignty have fallen to me, I declare to you my adherence to the strict principles of constitutional government and my resolve to work before all else for the welfare of the British Commonwealth of Nations

With My Wife as helpmeet by my side, I take up the heavy task which lies before me In it I look for the support of all My Peoples

Furthermore, My first act on succeeding My Brother will be to confer on Him a Dukedom and He will henceforth be known as His Royal Highness the Duke of Windsor

14 THE CIVIL LIST

The Civil List is the name given to the account in which are contained all the expenses immediately applicable to the support of the British sovereign's household and the honor and dignity of the Crown An annual sum is voted by Parliament to the sovereign at the beginning of his reign and is not thereafter altered Since the reign of William IV, the sum thus voted has been restricted solely to the personal expenses of the Crown The income from the hereditary lands and properties of the king now belong to the state As indicated below, members of the royal connection other than those in the immediate family of the ruler are also given statutory grants (*Constitutional Yearbook*, 1938, pp 11-12)

The Civil List Act, 1936 (26 Geo V, and 1 Edw VIII, cap. 15) was passed in recognition of the fact that the Hereditary Revenues belonged to the Crown. It is directed, therefore, that under the Civil List Act, 1937 (1 Edw VIII, and 1 Geo VI, cap. 32), which received Royal Assent June 10th, 1937, the Hereditary Revenues specified in the Civil List Act of 1936, shall be paid into the Exchequer and made part of the Consolidated Fund, and that the clear yearly sum of £410,000 shall be paid out of the same as a provision for the honour and dignity of the Crown.

The manner in which the Royal income is to be applied is strictly defined as follows, the amount of the Civil List of 1910 being added for comparison —

	1910 £	1937 £
His Majesty's Privy Purse	110,000	110,000
Salaries of H. M. Household and Retired Allowances	125,800	134,000
Expenses of H. M. Household	193,000	152,800
Works	20,000	Abolished
Royal Bounty, Alms and Special Services	13,200	13,200
Unappropriated Moneys	8,000	Abolished
	<hr/> £470,000	<hr/> £410,000

His Majesty also enjoys the revenues arising from the Duchy of Lancaster amounting in 1936 to £100,000.

Provision is made under the Civil List Act, 1937, for a contingent annuity of £70,000 for Her Majesty Queen Elizabeth in the event of her widowhood. The First Lord of the Treasury, the Chancellor of the Exchequer, and the Keeper of the Privy Purse are, by the Civil List Act, 1937, appointed the Royal Trustees, and there shall be paid to them an annual sum of £10,000 in respect of each of His Majesty's sons (other than the Duke of Cornwall for the time being) who attains the age of 21, and a further annual sum of £15,000 in respect of each son who marries, and an annual sum of £6,000 (other than H. R. H. Princess Elizabeth) in respect of each daughter who attains the age of 21 or marries. A life annuity of £10,000 is provided for H. R. H. the Duke of Gloucester (in view of his additional duties during the minority of H. R. H. Princess Elizabeth or a future Duke of Cornwall) in addition to the annuity (£25,000) already payable to him under the Civil List Act, 1910. In the case of Princess Elizabeth as Heir Presumptive a life annuity of £6,000 is provided to be increased to £15,000 on attain-

ing the age of 21 should there then be no Duke of Cornwall So long as the revenues of the Duchy of Cornwall were vested in His Majesty it was his intention to make the provision for Princess Elizabeth and the Duke of Gloucester out of those revenues, and in so far as those revenues were sufficient to provide for His Majesty's Privy Purse

Provision was made under the Civil List Act of 1910, for an annuity of £70,000 for Her Majesty Queen Mary in the event of widowhood Provision was also made under that Act of an annual sum of £10,000 in respect of each son of His late Majesty King George V (other than the then Prince of Wales), attaining the age of 21 and a further annual sum of £15,000 on marriage, and an annual sum of £6,000 in respect of each daughter attaining the age of 21 or on marriage

In addition to the income granted to the King, Parliament also grants annual sums to other Royal Personages In the year 1937 these annuities amounted to £169,000, made up as follows —£70,000 for H M Queen Mary, £25,000 for the Duke of Connaught, £6,000 for the daughter of King Edward VII, £56,000 for the brothers and sister of the present King, and £6,000 a year each for Princess Louise and Princess Beatrice

CHAPTER III

THE CABINET

15 THE PRIME MINISTER

THE prime minister is the most powerful official in the English government. He is, said John Morley, "the keystone of the Cabinet arch." The factors which govern his selection are largely those of personality, political experience, and delicate relationships within the party. His control over the cabinet as a whole, his relationship to the administrative heads of each of the departments, and his role as party chief constantly tax his powers of leadership and his ingenuity. The features of the prime ministership which distinguish it from the other cabinet positions are described in the following passage (R. Bassett, *The Essentials of Parliamentary Democracy*, 1935, pp. 29-32.)¹

The actual power wielded by the Premier varies with each holder of the office, and with the same holder at different times. Gladstone's authority was far greater in the Cabinet of 1886 than in that of 1880-1885, and much less in the Cabinet of 1892-1894. The Prime Minister may be only "primus inter pares", he may be much more than that, but he is seldom or never the "autocrat" or "potentate" he is often assumed to be. As a rule, he enjoys exceptional authority among his Cabinet colleagues. That author-

¹ Reprinted by permission of The Macmillan Company, New York

ity, however, is only in part derived from his position as head of the ministry. As the individual entrusted by the King with the task of forming an administration, he is, clearly, in a special position, but when it is stated that he "not only selects the Ministers and assigns to them their offices, he can dismiss any of them, or transfer them from one office to another," we have a description of the constitutional forms and not of the political realities. Normally, the Premier is in these matters anything but a free agent. His power of choice is restricted in many ways, most of them obvious enough. The present Prime Minister pointed out in 1909 that "however arbitrary the present method may seem, Premiers have not an absolute freedom of choice regarding their subordinate ministers." After personal experience of the position, he would probably emphasize rather than modify his statement. The most autocratically-minded Prime Minister has to modify his personal wishes, as memoirs and biographies abundantly testify. Anything less like an "autocrat" than a British Prime Minister it would be difficult to conceive. Professor Muir says that "so long as he controls a majority in the House of Commons, he wields all the powers of Parliament as well as all the powers of the Crown." This qualification, as we have seen, is all-important. There is another. "But it is necessary that the Prime Minister should carry his colleagues in the Cabinet, or a large majority of them, along with him, because, while they are his nominees, they are also the leading members of his party, and all his power will disappear if he cannot count upon the support of his party." Take the first point. He must carry his Cabinet colleagues along with him, and it can hardly be assumed that they will be distinguished for "docility." Indeed, the existence of "Cabinet dissensions" is constantly affirmed. It is true that the wish is often father to the allegation. "As a general rule," said Bagehot, "nothing can be less worth attention than rumours as to the divisions in Cabinets. Every one knows how they are generated in the smoking-rooms of clubs and of the House of Commons." But, as Bagehot pointed out, all Cabinets are divided. "Fifteen clever men never agree about anything, but how they are divided it is rarely possible to know, and then only under a pledge of secrecy." The measures proposed by the Cabinet are usually the result of compromise, and the Prime Minister, like any other member of the Cabinet, is often obliged to concede his individual judgment. Sir Robert Peel, who had as high a conception

of his position and duties as any man who has ever held the office, not only admitted the fact but energetically defended its implications. In some cases, the Prime Minister's primary qualification for his office has been a gift for getting difficult people to work together, and at all times, it is a necessary qualification.

Secondly, the Prime Minister's power is dependent upon the support of his party. That is very largely the case. The Prime Minister has, continuously, to maintain his position as leader of his party, or sometimes, of a combination of parties. In order to do so, he frequently has to modify, and sometimes to sacrifice, his own views. A person in such a position cannot properly be described as an "autocrat" or "potentate," whatever the precise signification of the latter term may be. The notion of the Prime Minister as a person habitually dictating the policy of his Government is hopelessly wide of the mark, and it is of some importance that its widespread vogue should be checked. However, it would be going too far, in our opinion, to say that "the whole strength of the Prime Minister rests upon the fact that he is a party Chief." It is not quite true that "if the party revolts against his leadership in an instant all his power melts away."

A Prime Minister does not derive his authority wholly from his party. His relations with his party are, as a rule, intimate. As a rule, he has been closely identified with his party over a period of years, and his party always derives some part of its power from him. The outcome of a revolt against his leadership may well be a breach in the party. He is not the servant any more than he is the master of his party, and his influence usually extends beyond its ranks. The real source of whatever authority a Prime Minister may possess is to be found in his own political ability. It is virtually impossible for a British Prime Minister to be a mediocrity.

16 THE SELECTION OF A CABINET

The political events which lead to the resignation of one cabinet usually, though not always, indicate the course to be followed in the selection of a successor. The king ordinarily consults with the resigning prime minister as to which of perhaps several members of the opposition party he should invite to form a new cabinet. Sometimes the king has several possible

choices, sometimes the party has limited his choice by selecting its own leader and indicating that it will follow no other. Whoever is chosen prime minister selects the other ministers and presents their names to the king for approval. In allocating positions to his colleagues the prime minister must keep in mind a variety of considerations—party unity, geography, personal qualifications, the wishes of the king. How he does so is vividly described in the following account of the making of a government (Michael MacDonagh, *The Pageant of Parliament*, 1921, I, 141-50.)¹

Macaulay, writing to his sister Hannah on December 19, 1845, says "It is an odd thing to see a Ministry making I never witnessed the process before. Lord John Russell has been all day in his inner library. His antechamber has been filled with comers and goers, some talking in knots, some writing notes at tables. Every five minutes somebody is called into the inner room. As the people who have been closeted come out, the cry of the whole body of expectants is 'What are you?' I was summoned almost as soon as I arrived, and found Lord Auckland and Lord Clarendon sitting with Lord John. After some talk about other matters, Lord John told me that he had been trying to ascertain my wishes, and that he found I wanted leisure and quiet more than salary and business. Labouchere had told him this. He therefore offered me the Pay Office, one of the three places which, as I have told you, I should prefer. I at once accepted it."

But this Ministry was fated not to be formed. Both Lord Grey and Lord Palmerston, two leading members of the Whig Party, wanted the Foreign Office, and neither would recognize a superior claim in the other. Macaulay, from whose very lips the cup of office was thus rudely dashed, bore the disappointment philosophically. On the day after he had sent the letter, from which I have quoted, he wrote another to his sister, saying "All is over. Late at night, just as I was undressing, a knock was given at the door of my chambers. A messenger had come from Lord John with a short note. The quarrel between Lord Grey and Lord Palmerston had made it impossible to form a Ministry. I went to bed and slept sound."

¹ Reprinted by permission from E. Benn and Company, London.

When we come to consider the interesting business of making a Government, the first question that arises is—What is the chief test of a man's capacity for office? Under our Constitution, with its free and unfettered Parliament, of which the Ministers must be Members, a deliberative assembly where everything is made the subject of talk, talk, talk, and provided with a Reporters' Gallery for the dissemination of its debates through the Press, it is inevitable that a man's fitness for a post in the Administration should be decided mainly by his gift of speech. It must often prove a false standard of judgment in regard to genuine ability and character. Glibness of tongue, or even oratory, is certainly not an essential qualification for the administrative duties of government. Still, the fact remains that the ready talker with but little practical experience of affairs has a better chance of office than the man of trained business capacity who is tongue-tied. Perhaps debaters are really more useful to a Government than business men in an arena of conflict like the House of Commons. There are some excellent anecdotes pointing to such a conclusion. Disraeli, forming an Administration, offered the Board of Trade to a man who wanted instead the Local Government Board, as he was better acquainted with the municipal affairs of the country than its commerce. "It doesn't matter," said Disraeli, "I suppose you know as much about trade as Blank, the First Lord of the Admiralty, knows about ships."

It follows, therefore, that when a General Election has pronounced the sentence of condemnation on the existing Government, and men of another Party are called to the service of the country, selection for office is restricted mainly to those who have won distinction as debaters in Opposition. On the benches to the left of Mr Speaker are always numbers of young men ambitious of office, eagerly pushing themselves to the front on that conspicuous field of political activity, under the eyes of the Reporters' Gallery, most constant in their attendance, ever watching for an opportunity to strike a blow at once for their Party and their own reputation, in the hope that in the day of victory they shall have the proper reward of their services. Some of them are capable of talking well upon any subject. These aspire to be Secretaries of State. Others, not so remarkable for general ability or so glib of tongue, confine themselves to particular departments of administration. It is the endeavour of each to obtain a mastery of the busi-

ness details of some special office—Foreign, Home, Treasury, Colonial, Army, Navy, Post Office, Pensions, Trade, Transport, or Agriculture—looking for an Under-Secretaryship, in the expectation of ultimately attaining, after some years of diligent and capable service, to Cabinet rank. Yet the qualities needed for success in office are often entirely different from those that bring fame and renown in Opposition. Gladstone said of Robert Lowe, whom he appointed Chancellor of the Exchequer in his first Administration on the strength of the reputation which that slashing debater had made in Opposition, that he was “splendid in attack, but most weak in defence”, “that he was capable of tearing anything to pieces, but of constructing nothing.” But it is only after the brilliant swashbuckler of Opposition has been tried in office that his incapacity and weakness in the true gifts of statesmanship are discovered.

Besides the pushful young men in the ranks on the back benches, with their abounding sense of fitness for office, there are the veterans of the Front Opposition Bench, survivors of the Ministry of the Party when it was last in power. Some of these, it often happens, are men who have grown old and worn in the service, as their wrinkled faces, bald heads, and stooped forms testify; but their interest in public affairs has not in the least abated, and they still crave to be placed at the head of Departments. It might be supposed that the weighty responsibility of office is a burden to be avoided rather than coveted by old parliamentarians, the world has such pleasant delights, apart from politics, with which they might occupy the leisure of the close of their day. But that is an idle supposition.

These are the two classes—the old but the tried, the able but the untrained young—from which the Prime Minister draws the members of his Administration. As I have indicated, he has not an absolutely free choice. He may not sit down in his study and, surveying the most prominent members of his Party in both Houses, select for office those who have proved themselves possessed of the qualities of character, ability, experience, and training. His task it is to satisfy, as far as possible, claims as conflicting as they are strong, and, at the same time, give to his Administration that weight and authority which is necessary to win and hold, in some measure, the confidence of the country. It is said that Gladstone, who formed no fewer than four Administrations—an almost

unprecedented record in constitutional history—used to draw up on separate slips of paper a list of the various offices, placing opposite each the names of three or four more or less eligible men as alternatives, and then, by a process of sifting, evolve the definite list. But this method, which no doubt most Prime Ministers adopt more or less, is not at all the simple matter it looks. It has to be followed out with exceeding care and circumspection. For every post in the Ministry there are at least three or four influential aspirants, old or young, each of whom thinks the office on which his mind is set is his by every title of personal fitness and devotion to the Party. To adjust these rival claims is, as I have said, no easy thing for the Prime Minister. Some of the office seekers, those especially who know there are strong rivals in the field, insist upon personal interviews, in order to set forth their pretensions fully and unanswerably, and the serious loss the Party, if not the nation, would suffer were it not to have the advantage of their services. Every post brings shoals of letters from Members of Parliament, and leading Party men in the country, strongly urging the appointment of this person or that to a post in the Ministry, or his inclusion in the Cabinet.

Another important consideration of which the Prime Minister is obliged to take heed is the distribution of the offices of the Administration between the House of Lords and the House of Commons. It was provided by the Government of India Act, 1858—creating a fifth Secretary of State, that for India, the others being for Foreign Affairs, Home, the Colonies, and War—that four Secretaries of State and four Under-Secretaries may sit as members of the House of Commons at the same time. In 1864 notice was taken that five Under-Secretaries were sitting in the House of Commons in violation of this statutory provision, and a motion was made that the seat of the fifth Under-Secretary was thereby vacated. The House referred the matter to a Committee, who reported that the seat of the Under-Secretary last appointed was not vacated, but as the law had been inadvertently infringed, it was thought necessary to pass a Bill of Indemnity. By the Air Force Act, 1917, a sixth Secretary of State, that for Air, was created, and the number of Principal Secretaries of State and Under-Secretaries capable of sitting in the House of Commons was increased to five. The Chancellor of the Exchequer must be in the representative Chamber, as the hereditary House cannot impose taxation. The

holders of all the other prominent offices may be in one House or the other, as the Prime Minister thinks most convenient. But it has now become a rule, from which probably there will never be a departure, of placing the Home Secretary—the Minister whose department comes most closely into touch with the ordinary life of the citizen—and his Under-Secretary in the House of Commons . . .

The process by which the Government is formed is, constitutionally, most interesting, but even in the best of circumstances, and apart altogether from the limitations to his unfettered choice which I have set out, it must indeed be harassing to the Prime Minister. If his power and influence are great, so are his embarrassments and difficulties. "Lord Grey is in a dreadful state of anxiety and annoyance, thinks he shall break down under his load," wrote Lord Tavistock to his brother, Lord John Russell, in 1830, during the making of the first Reform Administration. Disraeli, speaking in the House of Commons in March, 1873, described the constitution of a new Government as "a work of great time, great labour, and of great responsibility," and declared that the task had to be discharged solely by the Prime Minister. "It is a duty which can be delegated to no one," he said. "All the correspondence and all the interviews must be conducted by himself, and, without dwelling on the sense of responsibility involved, the perception of fitness requisite, and the severe impartiality necessary in deciding on contending claims, the mere physical effort is not slight." The only Prime Minister, perhaps, who approached the task of making an Administration with a sense of gaiety not unmingled with irresponsibility was Lord Palmerston. He had the engaging weakness of putting square men in round holes and round men in square holes, and the reconstruction of the Ministry which sometimes followed as a consequence was, to him, only a fresh source of laughter. "Ah, ha!" he would cry, "what a delightful comedy of errors! . . ."

17 THE OATH OF A PRIVY COUNCILLOR

Members of the cabinet are appointed by the king as privy councillors. It is membership in the Privy Council which officially establishes the relationship of trust and confidence between the king and his ministers. The oath of secrecy, given

below, to which each privy councillor subscribes is an interesting comment upon the historic functions and responsibilities of the king's ministers ¹

You shall swear to be a true and faithful servant unto the King's Majesty, as one of his Majesty's Privy Council. You shall not know or understand of any manner of thing to be attempted, done, or spoken, against his Majesty's Person, Honour, Crown, or Dignity Royal, but you shall let and withstand the same to the uttermost of your power, and either cause it to be revealed to his Majesty himself, or to such of his Privy Council as shall advertise his Majesty of the same You shall, in all things to be moved, treated, and debated, in Council, faithfully and truly declare your mind and opinion according to your heart and conscience; and shall keep secret all matters committed and revealed unto you or that shall be treated of secretly in Council And if any of the said Treaties or Councils shall touch any of the Counsellors, you shall not reveal it unto him, but shall keep the same until such time as by the consent of his Majesty, or of the Council, publication shall be made thereof You shall to your uttermost be in faith and allegiance unto the King's Majesty, and shall assist and defend all jurisdictions, pre-eminences, and authorities, granted unto his Majesty and annexed to the Crown by Acts of Parliament or otherwise, against all Foreign Princes, Persons, Prelates, States, or Potentates And generally in all things you shall do as a faithful and true servant ought to do to his Majesty. So help you God and the Holy Contents of this Book

18. THE MINISTERS OF THE CROWN ACT

The customary description of cabinet government in England as a system "founded not on laws but on practices" was modified by the passage of the *Ministers of the Crown Act*, 1937 This act not only recognized by statute the existence of the office of prime minister but recognized the cabinet as an advisory and even as an administrative body The act sets the salaries of cabinet members and of many other administrative

¹ Cited by Sidney Low, *The Governance of England*, rev ed., 1914, p 31. Reprinted by permission of G. P. Putnam's Sons, New York.

officers It also provides a salary for the leader of the opposition. Other provisions of the act, such as those which clarify the relation of administrative officers to Parliament, are equally significant developments in constitutional practices and structure (*Ministers of the Crown Act, 1937* 1 Edw VIII and 1 Geo VI.)

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows —

Part I

SALARIES AND PENSION

- 1 —(1) The annual salaries payable—
- (a) to each of the Ministers of the Crown named in Part I of the First Schedule to this Act, shall, subject to the provisions of this Act as to number, be five thousand pounds,
 - (b) to each of the Ministers of the Crown named in Part II of the said Schedule, shall be three thousand pounds,
 - (c) to the Minister of the Crown named in Part III of the said Schedule, shall be two thousand pounds
- (2) Subject to the provisions of this Act as to number, the annual salaries payable to the Parliamentary Under-Secretaries to the Departments of State shall—
- (a) In the case of the Parliamentary Secretary to the Treasury, be three thousand pounds, and in the case of the Financial Secretary to the Treasury, be two thousand pounds,
 - (b) in the case of the Secretary for Mines and of the Secretary of the Department of Overseas Trade, be two thousand pounds each,
 - (c) in the case of each of the Parliamentary Under-Secretaries to the Departments of State specified in the Second Schedule to this Act, other than the Parliamentary Secretaries mentioned in the last foregoing paragraph, be fifteen hundred pounds,
 - (d) in the case of the Assistant Postmaster-General, be twelve hundred pounds,

Provided that, if and so long as there are two Parliamentary Under-Secretaries to the Foreign Office, to the Admiralty, or to the War Office, the annual salary payable to each of the two Parliamentary Under-Secretaries may be of such amount as may be determined by the Treasury, but so that the aggregate of the annual salaries payable to both of them does not exceed three thousand pounds

(3) Subject to the provisions of this Act as to number, the annual salaries payable to each of the Junior Lords of the Treasury shall be one thousand pounds

2.—(1) The number of persons holding office as Secretary of State to whom salaries may be paid under this Act shall not exceed eight

(2) The number of Parliamentary Under-Secretaries to the Departments of State to whom salaries may be paid under this Act shall—

- (a) in the case of the Treasury, not exceed two,
- (b) in the case of the Board of Trade, not exceed three, including the Secretary for Mines and the Secretary of the Department of Overseas Trade,
- (c) in the case of the Foreign Office, of the War Office, and of the Admiralty, not exceed two,
- (d) in the case of any other Department of State mentioned in the Second Schedule to this Act, and in the case of the Post Office, not exceed one

(3) The number of the Junior Lords of the Treasury to whom salaries may be paid under this Act shall not exceed five.

3.—(1) If and so long as any Minister of the Crown to whom this section applies is a member of the Cabinet, there shall be paid to him an additional salary of such amount as together with the salary payable to him in respect of the office held by him will amount to five thousand pounds a year.

(2) The date upon which any Minister of the Crown to whom this section applies becomes or ceases to be a member of the Cabinet shall be published in the London Gazette, and any such notification shall be conclusive evidence for the purposes of this section . . .

4.—(1) There shall be paid to the person who is Prime Minister and First Lord of the Treasury an annual salary of ten thousand pounds

(2) Any person who, whether before or after the passing of this Act, has been Prime Minister and has as First Lord of the Treasury taken the official oath prescribed by section five of the Promissory Oaths Act, 1868, shall be entitled to a pension of two thousand pounds a year.

Provided that no pension shall be payable under this sub-section to any person so long as he is in receipt of any pension under the Political Offices Pension Act, 1869, or any salary payable out of moneys provided by Parliament, the revenues of the Duchy of Lancaster or the Consolidated Fund of the United Kingdom.

5 There shall be paid to the Leader of the Opposition an annual salary of two thousand pounds

Provided that, if the Leader of the Opposition is in receipt of a pension payable to him under this Act, no salary shall be payable to him under this section, and if he is in receipt of a pension under the Political Offices Pension Act, 1869, the salary payable to him under this section shall be reduced by an amount equal to the amount of that pension

6—(2) No person in receipt of a salary or pension under this Act shall be entitled to receive any sum out of moneys provided by Parliament by way of salary or allowance in respect of his membership of the House of Commons

Part II

CAPACITY TO SIT IN THE HOUSE OF COMMONS

9—(1) Subject as hereinafter provided no person to whom a salary is payable under this Act shall by reason of his being the holder of the office or place in respect of which such a salary is payable, be rendered incapable of being elected, or of sitting and voting, as a member of the House of Commons

Provided that—

- (a) the number of persons entitled to sit and vote in that House while they are Ministers of the Crown named in Part I of the First Schedule to this Act shall not exceed fifteen,
- (b) the number of persons entitled to sit and vote in that House while they are Ministers of the Crown named in Part II of the said Schedule shall not exceed three; and

(c) the number of persons entitled to sit and vote in that House while they are Parliamentary Under-Secretaries shall not exceed twenty

(2) If at any time the number of persons who are members of the House of Commons while they are Ministers of the Crown named in Part I or in Part II of the First Schedule to this Act, or while they are Parliamentary Under-Secretaries, exceeds the number respectively entitled under this section to sit and vote in that House, the election of those members shall not be invalidated by reason of the excess, but of the number none except any who held his office and was a member of that House before the excess occurred, shall sit or vote therein until the number of Ministers of the Crown named in the said Part I or in the said Part II or of Parliamentary Under-Secretaries, as the case may be, who are members of the House of Commons has been reduced, by death, resignation or otherwise, to the number entitled under this section to sit and vote in that House.

(3) If any Minister of the Crown named in Part I or in Part II of the First Schedule to this Act or any Parliamentary Under-Secretary sits or votes in the House of Commons at a time when he is not entitled to do so by virtue of this section he shall be liable to a penalty not exceeding five hundred pounds for each day on which he so sits or votes

Part III

SUPPLEMENTARY

10.—(1) In this Act unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them, that is to say —

“Junior Lords of the Treasury” means the Lords Commissioners of the Treasury other than the First Lord and the Chancellor of the Exchequer;

“Leader of the Opposition” means that member of the House of Commons who is for the time being the Leader in that House of the party in opposition to His Majesty’s Government having the greatest numerical strength in that House

“Parliamentary Under-Secretary” means the Parliamentary Secretary and the Financial Secretary to the Treasury, any

Parliamentary Under-Secretary of State, the Parliamentary and Financial Secretary to the Admiralty, the Financial Secretary of the War Office, the Civil Lord of the Admiralty, the Parliamentary Secretaries to the Departments of State specified in the Second Schedule to this Act, and the Assistant Postmaster-General, but does not include any Parliamentary Secretary to whom no salary is payable .

(3) If any doubt arises as to which is or was at any material time the party in opposition to His Majesty's Government having the greatest numerical strength in the House of Commons, or as to who is or was at any material time the leader in that House of such a party, the question shall be decided for the purposes of this Act by the Speaker of the House of Commons, and his decision, certified in writing under his hand, shall be final and conclusive . .

19 THE MEMBERSHIP OF THE CABINET

A. AN ANALYSIS OF THE CABINETS, 1801-1924

The membership of the British cabinet has been drawn from a small social and economic elite. In the period reviewed in the study below, thirty-four families have supplied eighty-one of three hundred and six cabinet members. An analysis of the education of these ministers, their occupations, and their relations to the hereditary aristocracy is an instructive comment upon the lines of political influence and control. While the study reveals that the "aristocracy still rules," it also shows that the power of other classes in England is gradually growing (H. J. Laski, "The British Cabinet," Fabian Tract, No 223) ¹

In the period from 1801-1924, 306 persons held Cabinet office. Table I gives the salient particulars about them.

The interest of this table is considerable. Nearly sixty per cent of Cabinet ministers were born of immediately aristocratic parentage, sixty-five per cent were either at Oxford or Cambridge, twenty-three per cent were Eton men, and over ten per cent from Harrow, while seventeen per cent were from eleven other great public

¹ Reprinted by permission of the author and of the Fabian Society, London

TABLE I

	Number
Sons of Nobility	182
Sons of other Parents	124
Educated at Oxford	118
Educated at Cambridge	81
Educated at Eton	83
Educated at Harrow	36
Educated at other Public Schools	53
Educated at other Universities	26
Lawyers	42
Soldiers and Sailors	8
Business Men	23
Civil Servants	3
Men of Letters and Journalists	9
Trade Unionists	8

schools Thirty per cent. only were dependent upon their own efforts for a livelihood, and of these, nearly half were lawyers. In part, that is to be expected since the legal profession, as organised in England, is much the most compatible with a parliamentary career, while business men are, as a rule, only able at a comparatively late stage of their careers to devote themselves to politics. It is noticeable that very few Civil Servants have ever attained the eminence of Cabinet rank, and that, thus far, the number of trade unionists is very small. Had this analysis, indeed, ended in 1905, it would have contained the name of no working man.

Broadly speaking, the aristocracy with which we are concerned consists of a thousand families; but the actual number from which Cabinet ministers have been drawn is much smaller. The Cecil family and its relatives, for example, have contributed six Cabinet ministers to the total; the House of Grey five; the House of Stanley four; four families have three Cabinet ministers each, and twenty-seven families two each. Among commoners, not unnaturally, no such persistent attainment of office exists. Two Gladstones, three Chamberlains, two Harcourts and two Balfours exhaust the list. The explanation, of course, is largely personal and economic. A considerable section of the English aristocracy enters Parliament at an early age, and they are thus able to take advantage both of family prestige and freedom from material care. With commoners this is much more rarely the case, unless as with the Chamberlains, the creation of an independent fortune makes devotion to business unnecessary . . .

Table VI gives the same statistics for the period from 1906-1916 —

TABLE VI

Period V 1906-1916	Total number of Ministers	51
Sons of Nobility	.	25
Sons of other Parents	26
Educated at Oxford	20
Educated at Cambridge	16
Educated at other Universities	.	5
Educated at Eton	12
Educated at Harrow	5
Educated at other Public Schools	8
Lawyers	9
Soldiers and Sailors	1
Business Men	5
Civil Servants	0
Men of Letters and Journalists	3
Academic	1
Trade Unionists	2

In this period the most notable fact is that the number of aristocrats is, for the first time, less than the number of commoners. The number of university men remains broadly constant, but the number of public school men shows a distinct decline (from sixty-five per cent to fifty per cent) There is, also, an increase in the number of lawyers, and the category of trade unionists makes its first appearance Broadly, it may be said that this is the first of the periods under discussion in which commoners begin obviously to gain upon the aristocracy Whatever the measures of the nineteenth century, until 1906, the broadening of the franchise and the improvement of the means of education had not, in one hundred years of Cabinet history, seriously affected the hold of the aristocracy upon the pivotal posts of government

The changes represented by the [following] table, which includes the members of the first Labour Government, are obviously profound The aristocracy represents only twenty-seven per cent, the universities sixty, and the public schools only fifty per cent of the total There are as many trade unionists as lawyers, and there are twice as many lawyers as business men Obviously enough, had there been two Labour Governments within the period, the influence of the aristocracy on the personnel of the Cabinet would have been small indeed It is clear, further, that the position of

Table VII gives the statistics for the period from 1917 to 1924 —

TABLE VII

Period VI 1917 1924		Total number of Ministers	52
Sons of Nobility			14
Sons of other Parents			38
Educated at Oxford	...		18
Educated at Cambridge	.		9
Educated at Other Universities	.		4
Educated at Eton			6
Educated at Harrow			8
Educated at other Public Schools			11
Lawyers	.		8
Soldiers and Sailors	.		1
Business Men	.		4
Civil Servants			1
Men of Letters and Journalists			3
Academic	.		0
Trade Unionists	.		8

the Labour Party in the House of Commons means that the decline in the percentage of university men is likely for a considerable period to be large, as also that the number of trade unionists is likely to remain fairly stable as at some such size as at least one-third of each Labour Cabinet.

Certain general characteristics of the figures here collected may be noted. In our period, 306 persons held Cabinet office, and of them 182 were aristocrats. But, if we subtract from the 306 the 93 who earned their living, no less than 213, or practically seventy per cent, were rentiers. Not less remarkable is the small number of professions from which the Cabinet has been drawn. Outside the rentiers, practically five categories exhaust the list. No scientist, no engineer, and no doctor has ever been a member of the Cabinet, and, with the exception of Mr Herbert Fisher whose appearance was an accident of the War, no academic person, though, for a brief period, both Robert Lowe and Viscount Gladstone were university dons.

"In England," wrote Matthew Arnold some fifty years ago, "the Government is composed of a string of aristocratical personages, with one or two men from the professional class who are engaged with them." Of the English Cabinet system until 1905 this is no unfair account, and, if since that time, the generalisation has lost some part of its force, it is still by no means negligible.

B THE "RULING CLASSES" IN THE CABINET, 1938

Professor Laski's study clearly indicates that the membership of the cabinet has been largely drawn from the ranks of an English economic and social aristocracy. The following account of the economic and social connections of fourteen of the twenty members of the National Government (1938) supports the estimate of the "class" character of British government. It should be kept in mind that these facts were collected and presented by the political opponents of the National Government (*Labour Research, February, March, April, 1938*)¹

Neville Chamberlain is the son of Joseph Chamberlain, Colonial Secretary from 1893. The Chamberlains were a Birmingham family, whose wealth rested on the family business of Nettlefold and Chamberlain, which during the late nineteenth century acquired an almost complete monopoly in screw manufacture in England. This firm is now part of the £12,000,000 Guest, Keen and Nettlefold coal, iron and steel combine, which is now closely allied with Baldwin's Ltd (from which came Stanley Baldwin), in the control of Guest, Keen, Baldwin's Iron and Steel Co.

Educated at Rugby and Mason College, Birmingham, Neville Chamberlain spent a short period in an accountant's office, and at the age of twenty-one went to the island of Andros, Bahamas, to look after his father's sisal plantation. On his return he went into business in Birmingham and became associated with Elliot's Metal Co (Kynoch Works), now a subsidiary of I C I Metals, and Birmingham Small Arms Co (now a £3,368,902 combine producing rifles, machine guns, aeroplane parts, motor cars and cycles, which in recent years, according to the director's report, has benefited considerably from the defence programme). Of both these concerns he was a director up to 1920.

Lord Swinton—born in 1884, his name was originally Philip Lloyd-Greame, but he changed it in 1924 to Cunliffe-Lister. He was M.P. for Hendon from 1918-1935, but his Parliamentary and ministerial duties left him time to become influential elsewhere. As early as 1918 he was on the board of Metropolitan Carnage

¹ Reprinted by permission of the Labour Research Department, London

Wagon and Finance Co Ltd (now merged in the Vickers-Cammell Laird arms group), and later became a director of other concerns, including Anglo-Argentine Tramways and Société Financière de Transports et d'Entreprises Industrielles—a huge Germano-Belgian electrical concern—with subsidiaries throughout the world, notably in Spain, Italy, Germany and Portugal. He was, however, most prominent as chairman of the Tin Producers' Association, formed by Empire producers in 1929 to limit tin output by voluntary agreement, and thus raise prices. The scheme was successful only after the Colonial Office had helped it forward by putting pressure on non-Empire producers, and a compulsory restriction scheme was introduced early in 1931. Later in 1931 Cunliffe-Lister resigned the chairmanship, and in November became Colonial Secretary. Under the International Tin Committee's scheme, which he had helped to introduce, tin prices roughly doubled between 1931 and 1934.

In July, 1935, Cunliffe-Lister left the Colonial Office and became Air Minister, and in November of that year was made a peer . . .

To our account of Swinton should be added the fact that his wife's grandfather, Lord Masham, left £1,557,606 when he died, this fortune being derived from Bradford silk mills, wool textiles and coal mines. Lord Swinton inherited his Yorkshire estate at Swinton and a large fortune from this noble gentleman. He is one of the three trustees for the debenture holders of the Bradford Dyers' Association Ltd, which is a merger of thirty-two firms.

Lord Halifax—grandson of eleventh Earl of Devon who owned 53,000 acres. Member of the Wood family, big Yorkshire landowners, brother-in-law of the Earl of Onslow (owner of 13,500 acres), father-in-law of Baron Bingley (Secretary of State for Mines, 1922-4 and 1924-8) and of the Earl of Feversham (Parliamentary Secretary to the Ministry of Agriculture and half-brother of Mrs Anthony Eden); Viceroy of India, 1926-1931; President of Board of Education, 1922-24 and 1932-35, new Foreign Minister.

Henry "Chips" Channon—newly appointed Parliamentary Private Secretary at the Foreign Office, naturalised American, close friend of Von Ribbentrop, husband of former Lady Honor Guinness, who is niece of Lord Halifax and daughter of Earl of Iveagh (director of Royal Bank of Scotland and chairman of Arthur Guinness, Son and Co Ltd., the brewers). . . .

Earl Winterton—deputy to Swinton at Air Ministry, and in Cabinet Owns 2,800 acres, and until recently was director of Coventry Canal Co and Royal Exchange Assurance His uncle, second Duke of Abersorn, owned 26,000 acres, and his cousin, the third Duke, is Governor of Northern Ireland

Sir Samuel Hoare—son of a partner in the banking house of Barnetts, Hoares and Co, brother of Oliver V G Hoare (a close associate of Howeson, later jailed, being a co-director of his on seven tin companies), brother-in-law of Earl of Beauchamp (an Ecclesiastical Commissioner and owner of 5,000 acres) He was deputy High Commissioner of League of Nations for care of Russian refugees, 1921, Air Minister, 1922-24 and 1924-29, Indian Minister, 1931-35, Foreign Minister in 1935 when he lost his post owing to his part in the Hoare-Laval talks designed to recognise Italian conquest of Abyssinia In 1931 he was director of Employers Liability Insurance Corporation, Clerical Medical and General Life Assurance Society, and Anglo-Portuguese Colonial and Overseas Bank Now Home Secretary.

A Duff-Cooper—his uncle married daughter of Edward VII, brother-in-law of Duke of Rutland (owner of 18,000 acres and of minerals in Leicester and Derby) His training for present post of First Lord of the Admiralty was Eton, Oxford, Grenadier Guards and a clerkship at the Foreign Office [Resigned, 1938]

Rt Hon Oliver Stanley, President of the Board of Trade, and his brother, Lord Stanley, Parliamentary Under Secretary of Dominions—their father is Earl of Derby, owner of 62,000 acres, director of Royal Bank of Scotland and President of British Cotton Growers Association Ltd, of which Lord Stanley is Vice-President Their brothers include (1) Hon A F Stanley, who married aunt of Duke of Westminster (owner of 30,000 acres in Cheshire, an estate in Scotland and 600 acres in London), (2) Hon Arthur Stanley, who is director of Westminster Bank, Bryant and May Ltd, Lancashire United Transport and Power Co Ltd, and Buenos Ayres and Pacific Railway, (3) Lt-Col the Hon Sir George F Stanley, Parliamentary Secretary at Ministry of Pensions, 1924-29, and Governor of Madras, 1929-34. Oliver Stanley is son-in-law of Lord Londonderry, and, as Minister of Labour in February, 1935, introduced the original Unemployment Assistance Board scales, which were revoked immediately in response to

nation-wide protests Lord Stanley, in 1931, was a director of the London and Lancashire Insurance Co Ltd

Sir Philip Sassoon—Eton and Oxford, grandson of Baron Gustave de Rothschild, of the famous banking family Before entering politics was a director of his family firm of David Sassoon and Co Ltd, merchants with big Indian connections. Brother-in-law of Marquess of Cholmondeley (owner of 24,000 acres)

Lord Hailsham—recently appointed President of the Council Born a Hogg and served eight years in his family firm of Hogg, Curtis, Campbell and Co, West Indian sugar merchants Was a director of legal and General Insurance Co, 1920-22 and 1929-31, and 1931 was a trustee of the Abbey Road Building Society

Leslie Hore-Belisha—Who's Who does not give his father's name, merely says he is the son of the late Lady Hore His father was, apparently, J I Belisha, of Belisha and Co., stockbrokers The present head of the this firm is Albert Isaac Belisha, also director of Scammell Lornes Ltd., Metropolitan Surplus Lands Co. Ltd., and Guardian Eastern Insurance Co Hore-Belisha's step-father, Sir C F Adair Hore, is now Permanent Secretary at Ministry of Pensions; was formerly Assistant Secretary at Ministry of Munitions In 1931, Hore-Belisha was director of Smart Brothers Ltd, the furniture hire-purchase firm, and Antwerp Oil Wharves Ltd

W Ormsby-Gore—Colonial Secretary Son of Baron Harlech, who owns between 5,000 and 10,000 acres Son-in-law of Marquess of Salisbury, who is head of the big landowning Cecil family and father of Viscount Cranborne, who resigned with Eden. On December 21st, 1936, a private company with £3,100,000 capital, Gascoyne Cecil Estates Co., was formed to manage the Cecil estates with Salisbury and Cranborne as sole directors Ormsby-Gore is the nephew of the former senior partner of the stockbroking firm of Gore and Co

Marquess of Hartington—Under-Secretary for the Dominions Son and heir of Duke of Devonshire, who owns 186,000 acres, and minerals in Derbyshire

Earl of Plymouth—Parliamentary Under-Secretary for Foreign Affairs and chairman of the Non-Intervention Committee. Owns 30,500 acres and is son-in-law of Earl of Wemyss, owner of 62,100 acres

20 THE PRINCIPLE OF CABINET SOLIDARITY

One of the most respected conventions of cabinet government in England is that of cabinet solidarity. No matter how varied its composition or how divided in its opinions in private, the cabinet is expected to present a united front to the House of Commons and to its political opposition. This requirement sometimes places a severe strain upon the unity of cabinets which are compelled to formulate policies on highly debatable issues, or which bring together men of widely differing views. The ramifications of this principle are shown in the following comments taken from one of the most recent studies of cabinet government (W Ivor Jennings, *Cabinet Government*, 1936, pp 217-27) ¹

For all that passes in Cabinet (said Lord Salisbury in 1878) each member of it who does not resign is absolutely and irretrievably responsible, and has no right afterwards to say that he agreed in one case to a compromise, while in another he was persuaded by his colleagues. It is only on the principle that absolute responsibility is undertaken by every member of the Cabinet who, after a decision is arrived at, remains a member of it, that the joint responsibility of Ministers to Parliament can be upheld, and one of the most essential principles of parliamentary responsibility established.

A minister who is not prepared to defend a Cabinet decision must, therefore, resign. Of such resignations there are many examples. Lord Palmerston resigned in 1853 because he could not agree to Lord John Russell's Reform Bill, though he afterwards withdrew his resignation. Lord John Russell resigned in 1855 because he agreed with Roebuck's motion and was not prepared to join with the Cabinet in resisting it. Mr Gladstone and other Peelites resigned in the same year because they would not accept Roebuck's adjourned motion. General Peel and three others resigned in 1867 because they could not support Disraeli's Reform Bill. Sir Herbert Samuel and other Liberals, and Viscount Snowden, resigned in 1932 because they could not support the Ottawa Agreements.

If a minister does not resign he is "responsible." The nature of that responsibility is studied elsewhere. From the minister's point

¹ Reprinted by permission of the Cambridge University Press.

of view it means only that he must vote with the Government, and speak in defence of it if the Prime Minister insists, and that he cannot afterwards reject criticism of his act, either in Parliament or in the constituencies, on the ground that he did not agree with the decision. The story is told of Lord Melbourne that after his Cabinet had come to a conclusion on the Corn Laws he said, "By the bye, there is one thing we haven't agreed upon, which is, what are we to say? Is it to make our corn dearer, or cheaper, or to make the price steady? I don't care which, but we had better all be in the same story." That puts the matter precisely, they must all tell the same story.

Cabinet ministers are expected not merely not to oppose a Cabinet decision but also to support it. Mr Gladstone in the Cabinet of 1868-74 strongly criticised the absence of a minister from a division. "I should not act frankly by you if I did not state it, without hesitation, as a general and prospective proposition, that, without reference to the likelihood or unlikelihood of defeat, upon motions which must from their nature be votes of confidence, [there can] be but one rule for the members of the Government, and that is to give the votes themselves which at the same time the Government with less strong title is asking from the members of their party." This does not imply, of course, that a minister may not "pair" with a member of the Opposition in accordance with the usual practice.

Mr. Lloyd-George made his famous Mansion House speech on the Algeiras crisis in 1911 after consulting the Cabinet. In 1916, however, he laid down the policy of "the Knock-out Blow" in an interview with an American journalist without consulting anybody, and Sir Edward Grey protested. It appears that Mr. Baldwin, as Prime Minister, raised the question of protection without consulting the Cabinet. In 1927 Sir William Joynson-Hicks, speaking on a private member's Bill with the Prime Minister beside him, startled the House by stating that the Cabinet would introduce a Bill to reduce the age at which women were entitled to the franchise. The Cabinet had taken no such decision, and it is said that most of its members were against the proposal. Nevertheless, the Cabinet felt bound to support the Home Secretary.

These precedents are inconclusive. It may be said, first, that the Prime Minister is frequently in a position to pledge his colleagues' support, because the only alternative is his own resignation. Sec-

only, a minister should not announce a new policy without Cabinet consent; but, if he does, the Cabinet must either support him or accept his resignation. Thirdly, a minister ought to be chary about expressing personal opinions about future policy except after consultation, and if the circumstances are such as to pledge the Government, the Prime Minister has real cause for complaint. Any statement in advance of a Cabinet decision is dangerous to the stability of the Government.

21. THE AGREEMENT TO DIFFER

The convention of cabinet solidarity is likely to be especially irksome when new and controversial political issues make agreement difficult or when strong-minded men bring to the cabinet differing convictions. This has been true since 1931 when Mr MacDonalld formed a National Government (coalition cabinet) to deal with certain financial exigencies. This coalition was renewed under Mr Baldwin in 1935 (after a general election in that year) and continued in 1937 under the leadership of Mr Chamberlain after the resignation of Mr Baldwin. Although the National Government has been dominantly Conservative it has nevertheless had within it several men whose points of view represent more divergent opinions than would usually be found in the cabinet.

This fact was particularly evident in 1932 when Sir Herbert Samuel, Lord Snowden, Sir Donald Maclean, and Sir Archibald Sinclair were included in the cabinet. These four ministers were unable to agree with their colleagues upon certain tariff proposals. Rather than lose the services of these cabinet members and run the risk of a breakup of the National Government, the majority members of the cabinet accepted an "agreement to differ" which allowed the dissenting ministers to speak in opposition to the Government's policy on the tariff. The first of the documents below is the official statement of the "agreement to differ." The second is a statement by the four ministers, who resigned eight months later, thereby reviving cabinet solidarity as a governing principle.

A CABINET STATEMENT OF THE AGREEMENT TO DIFFER,
JANUARY 22, 1932

(J A R Marnott, "Cabinet Government—Its Future," *Fortnightly Review*, Vol 137, March 1932, p 311.)

The Cabinet has had before it the report of its Committee on the Balance of Trade, and after prolonged discussion it has been found impossible to reach a unanimous conclusion on the Committee's recommendations

The Cabinet, however, is deeply impressed with the paramount importance of maintaining national unity in presence of the grave problems that now confront this country and the whole world

It has accordingly determined that some modification of usual Ministerial practice is required, and has decided that Ministers who find themselves unable to support the conclusions arrived at by the majority of their colleagues on the subject of import duties and cognate matters are to be at liberty to express their view by speech and vote

The Cabinet being essentially united on all other matters of policy believes that by this special provision it is best interpreting the will of the nation and the needs of the time

B RETURN TO PRINCIPLE OF CABINET SOLIDARITY—A
STATEMENT BY THE MINISTERS WHO
RESIGNED (SEPTEMBER 29, 1932)

(*Manchester Guardian Weekly*, September 30, 1932, p 264)

We were glad to co-operate with you and with others representing different views in forming a year ago a National Government charged with the special duty of helping to raise the country out of the grave financial and economic difficulties in which it was sunk

The first and urgent task was to balance the Budget, to stop borrowing for unemployment allowances, to save the pound sterling from collapse, and to re-establish the national credit. That has been successfully accomplished

The next task should have been to assist by every possible effort in freeing the world from the network of tariffs, quotas, and all kinds of commercial restrictions which, by universal consent, are the principal hindrance to a return to prosperity. Instead of doing this the Government has itself built up an immense and intricate system of similar restrictions intended to be lasting. The results so far have been profoundly unsatisfactory.

Last January those of the signatories of this letter who were members of the Cabinet, together with their late colleague, Sir Donald Maclean, and Lord Snowden, being strongly opposed to the policy then being adopted and foreseeing its consequences, wished to withdraw from the Government. They resigned their offices. At the urgent request of yourself and other members of the Cabinet they agreed to withdraw those resignations and to accept the unprecedented proposal made to them that they should be free of all responsibility for the policy to which they objected and should be at liberty to oppose the measures then in question by speech and vote.

The agreements at Ottawa present a fresh situation. It is different from that which then prevailed in two respects. First, the measures now about to be proposed are, in our opinion, open to objections of an even graver character than those that applied to the earlier measures. Secondly, while there are without question very grave difficulties still facing the country both at home and abroad it would not be true to say that there is now any acute and imminent danger such as existed a year ago and continued, though in less degree, eight months ago. We do not consider, therefore, that there is any longer an overriding national duty to maintain the present political combination notwithstanding the fundamental differences on great issues which divide us.

It is plain that with differences so fundamental upon matters of such high importance it is impossible for us to remain members of a Government which is bent upon giving to those agreements the force of law.

When, however, you had been informed on September 10 that this was the view which we took you urged upon us in a subsequent interview that in your judgment our withdrawal at this juncture would have unfortunate effects upon national interests at home and abroad and you asked us to reconsider the position. We did so, but we could find no way that would allow us to remain

in the Government short of a change in the announced policy with regard to the Ottawa agreements

We suggested that the projected legislation should be postponed for the time being in order that the Government should be able to enter the World Economic Conference with free hands. . . .

Our proposal, however, has been rejected

For these reasons, though with great regret, we must place the resignation of our offices in your hands

22 CABINET SOLIDARITY IN PRACTICE

A recent illustration of the operation of the principle of cabinet solidarity occurred following the Munich Conference of September, 1938, in which Chamberlain, Hitler, Mussolini, and Daladier participated. Alfred Duff-Cooper, First Lord of the Admiralty, objected strongly to British acquiescence to the German demands upon Czechoslovakia. After making a public announcement of his dissent from the foreign policy being pursued by Mr. Chamberlain, Mr. Cooper presented his resignation from the cabinet. The exchange of letters follows.¹

Mr. Cooper's letter of resignation.

It is extremely painful for me in the moment of your great triumph to be obliged to strike a discordant note.

For reasons with which you are acquainted and which I propose to explain in the House of Commons in due course I profoundly distrust the foreign policy which the present government is pursuing and seems likely to continue to pursue.

Feeling as I do, I have considered that honor and loyalty demand that I should offer you my resignation.

I do so with profound regret because I have been so proud to hold my present office, one I envied beyond all others in the State, and I have been so grateful to you for having placed such confidence in me and for having shown me such invariable kindness and patience.

Yours very truly,
DUFF-COOPER.

¹ *The New York Times*, October 2, 1938

Prime Minister Chamberlain's reply:

I have received your letter in which you tender your resignation from the government with great personal regret.

But knowing you are sincerely convinced the foreign policy of the present government is a mistake, I agree with you in thinking it would not be proper for you to remain a member of the government

Before submitting your resignation for approval of His Majesty the King, I should like to thank you for your work in the great office which you are now giving up and to express the conviction that differences over public policy will make no breach in our personal relations Yours sincerely,

N. CHAMBERLAIN.

CHAPTER IV

THE CIVIL SERVICE AND ADMINISTRATION

23 THE ADMINISTRATIVE DEPARTMENTS

THE social and economic problems with which governments must contend require extensive administrative machinery, and in England, as elsewhere, a multitude of departments, bureaus and commissions have come into existence. Two of the oldest and most prominent of them are the Foreign Office and the Home Office, described below. Both are outgrowths of the ancient office of Secretary of State. There are now eight "secretaries of state" dealing, respectively, with foreign affairs, home affairs, air, war, the dominions, Scotland, India, and the colonies.

A. THE FOREIGN OFFICE

("Inside the Foreign office," *Living Age*, CCCLIII, 1937-38, 491-94.)¹

The Foreign Office is organized along the following lines: at the top is the Foreign Secretary; the head of the permanent staff, the Permanent Under-Secretary, comes next, there follow the Deputy Under-Secretary and five Assistant Under-Secretaries, each of whom is responsible for a department, in addition there are about ten advisers. The political departments are arranged geographi-

¹ Reprinted by permission of the *Living Age*, New York.

cally there is a Far Eastern department for Japan and China, the Northern department for Russia and Scandinavia, etc. There are also non-political departments, for instance that of the Establishment Officer, and non-geographical ones like the Press Bureau. Passports are issued by a special department outside the Foreign Office, but under its supervision.

The chief of a political department has five or six assistants, beginning with a first secretary who is usually around forty years old, and proceeding down to third secretaries of twenty-four. Not included in this arrangement are the important posts of the legal advisers and librarians. The latter are also custodians of the records. Most of the departments, in addition, have experts of their own. Another important person is the Foreign Secretary's private secretary, who has the difficult and responsible task of being the intermediary between his chief and the Office. An army of minor officials and clerks completes the staff. The older officials have their own offices, the younger work three or four together.

Not only during the whirl of international crises, but at all times, the Foreign Office must be minutely informed about Great Britain's relations with other countries and about the relations of other countries with each other. It must be in a position to give an immediate answer to any question asked by the Foreign Minister or in the House of Commons. For this reason all reports from diplomatic and consular agents abroad must be constantly and thoroughly studied, compared and brought up-to-date.

The mass of the people learns little of the multitude of British interests abroad which the Foreign Office has to safeguard. Who, for instance, cares about a change in the statute of the international administration of Tangier, a problem which only recently made life very hard for certain Foreign Office officials? Or about agreements concerning British land leases in Japan, the complaint of a British citizen in Liberia, that of a sugar planter in Cuba, that of an unpaid British creditor in Italy, or the anxious inquiry of the mother of a missionary in China about the safety of her son? The latest domestic events in Yugoslavia, Turkey, Guatemala, Finland and sixty other countries must be studied, and the attacks on Great Britain in the Italian press, and perhaps an alleged affront of some foreign envoy in a British cinema, must be straightened out.

In 1934, no less than 155,081 documents were registered, thirty

years earlier, the correspondence amounted to only 49,556 documents. And at that time the Ministry of Commerce was attached to the Foreign Office, it has since become independent

Decoding is a tiresome occupation and one that is hard on the eyes. But sometimes, during a crisis, for instance, it is an exciting sport, as some important dispatch gradually reveals its content. Coding and decoding is done today by the Imperial couriers when they are not engaged in errands. All incoming documents are registered and forwarded to the proper departments, all except the most important and urgent ones come first into the hands of minor officials. Most of the documents are attended to by them, while the others are forwarded with marginal comments to the proper higher official. Comparatively few reach the Assistant Secretaries, and even fewer reach the Permanent Under-Secretary.

At the beginning of this century, when the Foreign Office was modernized in earnest, the Foreign Secretary had a staff of about one hundred employees. Today there are more than four hundred. The first woman worker, a typist, appeared in 1889, today there are more than a hundred women.

B. THE HOME OFFICE

(Lord Brentford, "The Home Office," *Saturday Evening Post*, December 7, 1929, p. 41.)¹

I have been asked to write a series of articles explaining the extraordinary position held by the Home Office, and, incidentally, by its chief, in the government of England. I doubt whether there is in any country in the world an institution exactly like it. I remember, when I first went to the Home Office, somebody asked me what I had to do, and my reply was difficult, so many and varied were my duties. The control of all the police, the management of all the prisons, the appointment of all the stipendiary magistrates, and of those criminal judges—called in our country "recorders"—the administration of factories, shops and workmen's compensation legislation, besides a host of other powers and duties, with some of which I will deal later, do make the Home Secretary, so far as any one person may be, in many respects a ruler of England.

¹ Reprinted by special permission of Lord Brentford.

There are in England seven Secretaries of State, but the Home Secretary is the Secretary of State. Abroad, the Foreign Secretary takes precedence of his colleagues, but here, perhaps because we are an island, the Home Secretary comes first. All the others have been carved out of him by acts of Parliament, as from time to time certain of his powers have been handed over to other secretaries. In medieval times, as private secretary of the King—for that is, I think, what, technically, he is still—he naturally obtained great influence and power. Nobody could see the King without going to him, all the King's letters were written by him, and even now all the King's signatures on state documents have to be authenticated by him. He was for some time always a cleric, merely because in those days nobody but clergymen knew how to write. In 1601 the King's secretary became "Our principal Secretary of State." The first lay Secretary of State was Thomas Cromwell, trained by the great Cardinal Wolsey. I remember one day, when walking through one of the government offices, I saw a portrait, after Holbein, of Thomas Cromwell. I said, "Where did you get that?" The reply was that it has been there for years and no one knew its history. But I said, "He, as one of my predecessors in office, now occupies an honored position over the fireplace in the Home Secretary's room. . . ."

Again, I wonder what my predecessor, Lord Shelburne, would have had to do in the Home Office? There would have been no industrial side in those days, because there were no Factory Acts and no Workmen's Compensation. Most of these great subjects which occupy so much of the time of the staff and the Secretary of State nowadays are the product of modern legislation. The factories in Lord Shelburne's time, and, still more, the mines, must have been horrible places. The early part of the Nineteenth Century was a period which cared nothing for human life or human misery. The Industrial Revolution, which converted England from a land of home workers and hand-loom workers to a land of factories with machine power, involved untold misery. The slavery—for it was nothing else—of young children, in both factories and mines, hardly bears description. There was a case of a boy, which came before a government committee at that time, who had to work fourteen and a half hours a day, with only one break of half an hour. He was under the charge of three overlookers, or foremen, one of whom was specially employed and paid to thrash

these wretched infants when they got tired at their work To Lord Shaftesbury we owe the great improvement in our factory life He laid the foundation of that wonderful system of factory inspection and welfare work which has now spread not merely through England but through the whole world. I shall hope to deal more with this in detail in a later article, because I know that in America you are, perhaps, in some ways in advance of us in the amenities you provide for the work-people in your great factories

In Lord Shelburne's time there was not much for the Aliens' Branch of the Home Office to do, I doubt if there was such a branch at all There was then none of the vast traffic to and fro between the nations of the world, and there was no need for a guardian of the gates of Great Britain Today there is such a need, and the guardian is the Home Secretary, who has acts of government and control of all the prisons resting in the Secretary of State

You have doubtless heard of meetings in Hyde Park and Trafalgar Square, which are the blow holes of the hot air which is generated in the underworld of British democracy There were bad rows in Trafalgar Square as early as 1886. As a young man, I remember them well—John Burns and others made revolutionary speeches But the police had a good deal of trouble Sometimes the square was lined with cavalry, and of course bigger crowds than ever came, partly to listen to John Burns and partly to see the cavalry—for the English people love their army—until finally Mr Asquith made a few simple rules, establishing the right of the Home Secretary to permit meetings from time to time, provided notice was given to the police and detailed arrangements made, and now there is never any trouble The same happens in Hyde Park—the hot air escapes instead of blowing up the boiler, and there is no trouble.

This is only a cursory review of some of the activities of the Home Secretary You may imagine that he has a difficult time—certainly a busy one For nearly five years I worked fourteen hours a day, and often, I am sorry to say, on Sundays as well Never when I went for a holiday, shooting in Scotland, for instance, did I have less than two hours' work a day You can't put off decisions for which your department is waiting, which may involve, if not life or death, matters of almost as much importance to some section of the community And when, after shooting, other men went off

to the smoking room to chat or play a game of bridge, the wretched Secretary of State retired to a private sitting room, which was generally given to him by his hosts, to do his work, and back the next morning the boxes were sent to the Home Office

24 AMATEURS AS MINISTERS

British ministers are generally amateurs so far as their acquaintance with technical departmental problems is concerned. If they are experts they are usually so only in the realm of politics. The following explanation of this feature of British administrative practice is given by a well-known writer. (Sidney Low, *The Governance of England*, rev. ed., 1914, pp. 136-38) ¹

But an English Cabinet is a group of political leaders, not a body of persons trained to administration. They have risen to prominence by the arts of the platform, the senate, or the salon, and they are not, as a rule, selected for high office because of any special knowledge or understanding of the important departmental work they are appointed, and paid, to control.

But they are seldom "experts" in a business to which they bring no more than a general knowledge of affairs, such as a reasonably intelligent person may be assumed to possess. Sometimes they may not even reach this moderate standard. In one Cabinet a country landowner, in another a lawyer or a financier, may be acting as the nominal chief and "responsible" director of the Navy of Britain. The Army may be under the control of a middle-aged civilian—

"That never set a squadron in the field,
Nor the division of a battle knows,
More than a spinster."

A hunting country squire, whose acquaintance with learning ended forty years before when he took his "pass" degree at Oxford, may find himself Minister of Education, and the Empire of India, with its clash of races and religion, its feudatory princes and kings, and its three hundred and fifty Oriental millions, may be represented by a Non-conformist solicitor.

¹ Reprinted by permission of G. P. Putnam's Sons, New York

Some years ago I listened to a speech at a public meeting, delivered by the Vice-President of the Council who, under the system then in force, was at the head of the Department of Education. The right honourable gentleman, having occasion to make use of the word "chumaera," pronounced it as if it were spelt "kim-merer." It may not be essential that he who drives fat oxen should himself be fat, but one would suppose that a Minister of Education would have education enough not to make a mistake of this kind.

The system is defended on the ground that, after all, precise and comprehensive knowledge of the details of his office is not what is required of a minister under our Parliamentary constitution. It is for his official subordinates to supply him with the technical details, and generally to look to the business of the department. He brings to bear on it the cool, matured judgment of a shrewd man of the world, he is able to vindicate and explain its doings in Parliament, and generally to be responsible for it in the eyes of the great council of the nation. Like the golden chain that Homer tells us binds heaven and earth and sea to the throne of Jove, this great official catena is supposed to join the highest and the lowest, and to stretch from the humblest messenger or doorporter to the exalted seats, where the statesmen who rule the Empire lie beside their thunder. Through one superior or another all grades of the service are responsible to the highly placed gentlemen, titled and ribboned, who are the heads of the permanent staff; they themselves, these accomplished under-secretaries, are responsible to the noble lords or eminent commoners who hold the ministerial seals; while these ministers, in the fulness of their power, are liable at any moment to be arraigned, not merely for their own acts, but for the acts of their subordinates, before the Assembly, which again is itself responsible to the sovereign People.

25 THE ROUTINE OF A MINISTER

The task of being a minister is an arduous one, making heavy demands on the time and ability of the most experienced men. If he holds a position of cabinet rank the minister must take part in the discussions of cabinet policy. Responsible for the management of a department, he must deal with innumerable

problems, great and small, which the permanent staff of the department must pass on to him. From him must come proposals for legislation relating to matters which fall within the scope of his department. In consultation with the chancellor of the exchequer he must make out departmental estimates to be presented to the House of Commons. In the House of Commons it is his duty to answer questions directed to him and to support the government on all occasions. There are also social obligations and contacts with the public to be maintained. All in all, his day is crowded with work, as the excerpt below brings out (Viscount Grey of Fallodon, *Twenty-Five Years*, II, 258-63) ¹

The methods of one Minister differ no doubt from those of another, what follows must therefore be understood to apply only to my own practice, though it is written in the third person. It will represent the proceedings of a normal day, when the work of the Foreign Office is large in amount, but when there is no great crisis to disturb the usual routine. The sample of twenty-four hours shall begin with the arrival of the Minister at the Foreign Office at or soon after 11 a.m. On arrival, if no arrears have been left over on the previous day, he finds only one box: it contains copies of the telegrams that have come in and been deciphered since the Office as a whole finished its work the day before. These he reads, and presently the Under-Secretary comes to his room. If any of the telegrams are urgent the Minister discusses them with the Under-Secretary, settles the line on which they should be dealt with. It may be that one or two of the telegrams render it desirable for the Minister to see one or more of the Foreign Ambassadors or Ministers: he sees the Private Secretary, who makes his appointments for the afternoon, arranges for him to see in succession foreign representatives whom he wishes to see, or who have asked to see him, British representatives, who are at home on leave, and any other persons whom he ought to see or interview.

Meanwhile the Under-Secretary has got to work on the papers that have been sent to him from the Assistant Under-Secretaries. Such of these as are deemed to be of sufficient importance or interest for the Minister to see are sent up to him. They arrive in

¹ Reprinted by permission of A. P. Watt and Son, London

wooden boxes covered with red leather, these boxes are of various shapes. Some are square, some are oblong and narrow, some are short, some are deep, some are shallow, and they are in different stages of renovation, preservation, and dilapidation, occasionally one seems to be new. Each box has a label protruding from it on which is printed the official title or name of the Minister, and also the name of the official from whom it comes. When the Minister has read the contents he reverses the label, locks the box, and returns it to the official who sent it. Amongst the papers that are sent will be the telegrams that the Minister has already seen, but a copy of each will be affixed to a large sheet of thick paper on which minutes are written. All the papers will, if they require it, have a minute by the head of the department specially affected, another by the Assistant Under-Secretary in whose group of departments this one is, and finally one by the Permanent Under-Secretary. In some cases no action is required, a despatch, for instance, from a British Embassy or Legation abroad may be interesting for the information it contains, but may not require any action, in many other cases the way in which the matter should be dealt with is not open to question. In such papers the Minister simply adds his initials in red ink to the last minute on the paper. On other papers, which he thinks require it, he writes his own comments or instructions, sometimes writing textually the words of the telegram that he wishes sent. If a paper presents much difficulty, especially if it should lead to difference of opinion in the minutes, the Minister perhaps reserves it for personal discussion with the Under-Secretary or one of the officials with special knowledge of the subject. When once he has initialled his own or any other official minute the Office is authorized to carry it out, without further reference to him.

To return now to the time-table. About 1.30 the Minister goes away to lunch, about three o'clock he returns, and much of the afternoon is taken up with conversations. The appointments made for him are spaced in time according to the estimate of the business to be discussed at each. A conversation of importance with a Foreign Ambassador may last half an hour, when it is over the Minister sends at once for his shorthand writer and dictates a condensed summary of the talk. If the matters discussed are fairly simple, the Minister may have two or three successive interviews with different Foreign Representatives, and then dictate the separate records one after the other. But it is better to dictate the record of an important

conversation immediately it is over Practice gives facility in distilling quickly for a dictated record the essential points, even of a long conversation, but much that is not essential has to be eliminated Throughout the afternoon important business must not be hurried, but all must be done with as much despatch as possible, or the appointments will get into confusion If there has to be an important interview space is cleared for it

Meanwhile, in such interstices of time as the interviews allow, the Minister deals with the red boxes of papers that are reaching him Between five and six o'clock he will have some tea brought in, it refreshes but does not make a break in the work, unless it be to look at an evening paper The Minister remains at the Office on easy days till about six, but more often till seven o'clock The work that he has not finished or that the Under-Secretary sends up later goes to increase the pile that is sent to the Minister's house There, after dinner, or when he comes home after dining out, he works at the papers, till such time as he goes to bed By his bed he places the papers that he has not yet done, and when he wakes, say about 7 a m , he resumes work in bed, spending an hour or more upon it before coming down to breakfast at 9 o'clock From breakfast till 11 a m there is opportunity for reading the newspapers and private correspondence.

This would be a fair sample of a full day, leaving ample time for meals, for some pleasure reading or society after dinner, and also for sleep, the rest of the time being fully occupied but without undue pressure When, however, the Minister has to attend a debate in Parliament, he has to make up somehow for the time thus taken away from his Foreign Office work One of his most depressing moments is after a long Foreign Office debate in the House of Commons The debate may have begun at four o'clock and ended at eleven It will have been necessary for him to sit through it and to speak, possibly to make a difficult and important speech When the debate is over he enters his room at the House of Commons and sees the pile of red boxes that have accumulated The boxes have labels of three colours: red implies urgent, and white ordinary business, green is intermediate The Minister sorts out the urgent work, condenses it into one or as few boxes as possible, and takes it home with him to work upon at night The rest he leaves to be taken back by messenger to the Foreign Office next morning, where it will greet him on his arrival as arrears of work belonging to the previous

day It is absolutely essential to avoid the accumulation of long arrears of work, they can never be overtaken, and they greatly impede the smooth and efficient working of the Office

In my own experience I was very conscious of the admirable way in which the immense and multifarious business was handled by the officials at the Foreign Office if that were not well and regularly done the Minister's position would be distracting; he owes it to the Office, in return, to deal with what comes to him in a manner that may make it as easy as possible for him to be well served

Three qualities of mind may be mentioned as specially needed for the transaction of business

- 1 A power of rapidly seizing the important or decisive points in the papers submitted to him.

- 2 A habit of switching his mind to the angle of vision that takes account of the environment of each subject He has to pass quickly from continent to continent One subject may be considered without regard to any other Power, another requires the susceptibilities or interests of other Powers to be borne in mind, and so forth with great variety

- 3 The power to dismiss from the mind papers disposed of, but to recall at once, when papers come before him again, perhaps weeks later, what was the last point with which he dealt To each paper, as it reaches him, there are attached previous papers, if there be such, that give the history of the affair; but it is well to be able to remember without having to reread documents that have been considered before

26 THE BUREAUCRACY

The permanent civil service exerts a strong influence throughout the entire governmental structure With long tenure, its carefully selected members become England's foremost authorities on technical problems that are perplexing to the cabinet and to parliament It is inevitable, therefore, that their opinions should be sought on such subjects When they are not advising politicians on proposals for legislation, they are busy putting into effect existing statutes and delegated legislation, the content of which they have helped to determine at some earlier time. Does Whitehall have too much control over

the government? Opinions differ widely. Certain aspects of the problem are discussed in the extract below. (Ramsey Muir, *How Britain Is Governed*, 1930, pp 54-69.) ¹

Let us consider, not merely forms and theories, but realities and facts, in regard to the three functions of administration, legislation, and finance. In administration, the Permanent Civil Service is supposed merely to give effect to the will of the political head of the Department, in legislation and finance it is not supposed to possess any power. Do these theories correspond with the facts? Let us examine this question, taking the three functions in order.

IN ADMINISTRATION

Think of a newly appointed Minister, taking command of a great Public Department, such as the Ministry of Health, or the Colonial Office. He has obtained this position because of his achievements in the general field of politics—because he is a good platform performer, or a good parliamentary debater, or commands a great deal of social influence, or is a prominent Trade Union organiser. In a majority of cases he has no special knowledge of the immense and complex work of the Department over which he is to preside. A great part of his time is necessarily swallowed up by discussions in the Cabinet and in Parliament, by party negotiations, by electioneering activities, by public engagements of great variety, by all sorts of social calls. He has to deal with a body of officials who may be, and often are, men of far greater natural ability than himself, and who have been giving their whole time in quietness to the study of the problems of the office, during the years when he has been making his position in the world, or talking hot air on platforms. They bring before him hundreds of knotty problems for his decision; about most of them he knows nothing at all. They put before him their suggestions, supported by what may seem the most convincing arguments and facts. Is it not obvious that, unless he is either a self-important ass or a man of quite exceptional grasp, power and courage (and both of these types are uncommon among successful politicians), he will, in ninety-nine cases out of a hundred, simply accept their view, and sign his name on the dotted line? In the

¹ Reprinted by permission of the author and of Constable and Co., Ltd., London.

hundredth case, some question of party principle—some promise that has been flourished on the platform—may be involved. The officials, of course, know this. They perhaps point out (what he had never realised) the practical difficulties in the way of a literal fulfilment of his pledges. They suggest to him a plausible compromise, which will save his face without making too great a breach with the accepted policy of the office. They know that with one type of Minister they will have to go slow, and that with another type they can suggest bolder devices. But it is they who have to work out the practical methods of doing what is to be done. On the whole, the policy of "the Office" will nearly always prevail: its powers of quiet persistence and of quiet obstruction, and its command of all the facts, are irresistible except to a man of commanding power.

IN LEGISLATION

In legislation the influence of the permanent officials is less obvious, but not less real. The legislation introduced by any Government, and carried by it through Parliament, falls into two categories. The first consists of those major controversial measures which are designed to carry into effect the promises given by the Government party to the electorate, and these occupy the major part of the attention of Parliament and the country. Their main ideas are, of course, due to the party which proposes them. But they have to be put into form by the Departments which will have to administer them, and, in the process, the proposals sometimes undergo a subtle change. Moreover, the Departments sometimes use these opportunities to obtain legal sanction for many changes suggested by their departmental experience. Thus the Derating and Local Government Act of 1928, which might have been a comparatively simple measure, was turned into a vast and complicated measure because there were imported into it a mass of proposals only indirectly related to the main theme, which had long been pigeon-holed in the Department as desirable changes, and which could now be got through, almost without discussion, by the use of the automatic Government majority.

But the main controversial measures—the Party Bills—form almost always the smaller part of the legislation carried through Parliament. The greater part of the Public Acts placed upon the Statute Book are Departmental measures, suggested by the admin-

istrative experience of the officials, and these sometimes affect the daily life of the people more than the Bills about which controversy rages. In these cases the real initiative in legislation, as well as the real responsibility for shaping its form, belongs to the Permanent Officials, though the Government of the day takes credit for them. Sometimes a Bill of this type is handed on from one Government to another. A current instance is the long-promised Factory Act, which has been in incubation for a number of years. The Labour Government of 1924 talked about it, the Conservative Government of 1925-29 promised in every session to introduce it, it may in the end be carried by the new Labour Government. No doubt the colour of some of its provisions will be affected by a change of Government. But in the main, whatever party carries it, and takes the credit for it, and denounces its opponents for criticising it, it will be a Departmental measure, initiated and shaped by the Permanent Officials.

IN FINANCE

We have discussed the power of bureaucracy first in administration, and then in legislation. There remains the sphere of finance. We are always told that the House of Commons 'holds the strings of the purse', and that this is the very keystone of its position. Does bureaucracy wield any power here? The management of the national finances has two aspects: first, the amount to be spent has to be fixed, and this is governed by the Estimates put forward by the various Departments; then it has to be decided how the necessary funds are to be raised. At each stage the influence of the Permanent Civil Service is of crucial importance.

It is true that a Government may come into office which is pledged to greatly increased expenditure, in one form or another—for pensions, for example, or for armaments, and in that case theirs is the determining voice. But the main bulk of the departmental Estimates, and the steady increase which nearly all of them tend to show year by year, is due mainly to the constantly expanding activities of the Civil Service. It is true, again, that a Government may come into office pledged to a drastic reduction of expenditure—it may even have promised to cut down the Estimates progressively by £10,000,000 a year, as Mr. Winston Churchill did in 1925. Why does it not do so? The main cause is the steady resistance of the

Departments, and in such cases the political heads of the Departments are usually found—despite all their pledges—to be very easily turned into the mouthpieces of their Departments, in opposition to their colleagues and to the declared policy of their party. Mr Winston Churchill, who made that rash promise about the £10,000,000, does not stand alone. He has companions in defeat in the leaders of the Labour Party, who came into office in 1924 pledged to drastic reductions in the expenditure on the fighting forces, and actually increased that expenditure by several millions of pounds. The Departments were too strong for them.

Again, in regard to the modes of taxation by which the necessary money is to be raised, a Government may come into office pledged to a particular new form of taxation: it may, for example, favour the imposition of tariffs on imports, or a capital levy, or an inflation of the currency, or a singeing surtax. The Departments concerned will, of course, have to give way. But the Government is apt to learn from the officials that the objections and obstacles to its proposals are greater than it thought. It may find that the Board of Trade somehow turns down most of the Safeguarding Duties that are proposed. It may find that Treasury opinion regards with a chilling disfavour new financial panaceas, and it may find itself overcome by a strange timidity in the presence of the Treasury Experts, backed by all the terrifying authority of The City. The Treasury, more than any other Department, seems to have a strange power of dominating and daunting Unorthodox Financiers. It has succeeded in turning Mr Philip Snowden, that Robespierre of Socialism, into an orthodox exponent of Gladstonian finance. But, in return for submission to its canons, it can turn its political chief into the darling of The City.

There are many who regard with apprehension, and even with dismay, the rapid expansion of Government functions, and the increase in the power of bureaucracy which seems almost inevitably to accompany it. They feel that we are being overgoverned, and that the boasted liberty of the British peoples is being seriously undermined. They think it is time to call a halt, and to refuse to allow Government to assume any further powers. Some antediluvian thinkers, like Sir Ernest Benn, urge that we ought to retrace our steps, and cancel all, or most of, the social legislation of the last two generations . . .

On the other hand, there are many who regard the growing

power of bureaucracy with satisfaction. This view is not limited to those who, like Lord Passfield (Mr Sidney Webb) are bureaucrats by instinct. It is widely shared, in a vague way, by others who distrust democracy and the kind of politicians that democracy, in its present stage, produces. When they think of the reckless promises by which (as they believe) votes are won under our existing methods of election, and how everybody seems to be promising that the millennium can be obtained by means of one quack remedy or another, and that we can (in one way or another) tax ourselves into prosperity without any unusual effort of work or thrift or thought, they rejoice to believe that the hard-headed bureaucrat, with his experience and his knowledge, is in reserve to check the panacea-mongers.

27 DELEGATED LEGISLATION

Until the middle of the nineteenth century the functions of government were relatively simple, so that parliament was able to give careful attention to legislation in almost all of its aspects. But as the economic and social life of England became increasingly complicated, parliament found itself swamped with problems. More and more it resorted to the solution of these problems by passing general legislative acts, leaving the ministry to work out details by means of administrative orders. This process of issuing orders in conformity with authorizing statutes is referred to as "delegated legislation." It is now very extensive, adding greatly to the power of the bureaucracy. In practice it takes two forms: (1) the statutory order in council, issued over the name of the Privy Council, and (2) the departmental regulation, which is issued by the departments. In popular speech they are variously referred to as "rules," "orders," "regulations," "by-laws," and "warrants." The extracts below illustrate various types of delegated legislation, explain the reasons why the practice has become so common, and give some of the arguments for and against it.

A. ILLUSTRATIONS OF DELEGATED LEGISLATION ¹

(1) *The Gold Standard (Amendment) Act, 1931* (Royal Assent 21st September, 1931), empowered the Treasury (Section 1 [3]) to make and from time to time vary orders authorising the taking of such measures in relation to the Exchanges and otherwise as they may consider expedient for meeting difficulties arising in connection with the suspension of the Gold Standard. The sub-section is in force for six months from the passing of the Act.

(2) *The National Economy Act, 1931* (Royal Assent 30th September, 1931), empowered His Majesty during the period of one month after the commencement of the Act to make Orders in Council effecting economies in respect of the services specified in the Schedule to the Act, and in respect of the remuneration (otherwise than by way of pension assessed before the commencement of the Act) of persons in His Majesty's service. Sub-section 2 of Section 1 provided that the Minister designated in any such Order might make regulations for giving effect to the Order, and sub-section 3 provided that any Order or regulations should, as from a date not earlier than 1st October, 1931, have effect notwithstanding anything in any enactment.

(3) *The Foodstuffs (Prevention of Exploitation) Act, 1931* (Royal Assent 7th October, 1931), authorised the Board of Trade, in case of need, to take exceptional measures for preventing or remedying shortages in, or unreasonable increases in the prices of, certain articles of food and drink.

B REASONS FOR DELEGATING LEGISLATION ²

(1) *Pressure on Parliamentary time* Pressure upon Parliamentary time is great. The more procedure and subordinate matters can be withdrawn from detailed Parliamentary discussion, the greater will be the time which Parliament can devote to the consideration of essential principles in legislation.

(2) *Technicality of subject matter* The subject matter of modern legislation is very often of a technical nature. Apart from the broad principles involved, technical matters are difficult to include

¹ Report of the Committee on Ministers' Powers, 1936, p. 33.

² *Ibid.*, pp. 51-52.

in a Bill, since they cannot be effectively discussed in Parliament

(3) *Unforeseen contingencies* If large and complex schemes of reform are to be given technical shape, it is difficult to work out the administrative machinery in time to insert in the Bill all the provisions required, it is impossible to foresee all the contingencies and local conditions for which provision must eventually be made. The National Health Insurance Regulations, and the Orders setting up Trade Boards, illustrate particularly well this aspect of the problem

(4) *Flexibility* The practice, further, is valuable because it provides for a power of constant adaptation to unknown future conditions without the necessity of amending legislation. Flexibility is essential. The method of delegated legislation permits of the rapid utilisation of experience, and enables the results of consultation with interests affected by the operation of new Acts to be translated into practice. In matters, for example, like mechanical road transport, where technical development is rapid, and often unforeseen, delegation is essential to meet the new positions which arise.

(5) *Opportunity for experiment* The practice, again, permits of experiment being made and thus affords an opportunity, otherwise difficult to ensure, of utilising the lessons of experience. The advantage of this in a matter, for instance, like town planning, is too obvious to require detailed emphasis

(6) *Emergency powers* In a modern State there are many occasions when there is a sudden need of legislative action. For many such needs delegated legislation is the only convenient or even possible remedy. No doubt, where there is time, on legislative issues of great magnitude, it is right that Parliament itself should either decide what the broad outlines of the legislation shall be, or at least indicate the general scope of the delegated powers which it considers are called for by the occasion

C. CRITICISM OF DELEGATED LEGISLATION ¹

(1) *Skeleton legislation.* Acts of Parliament may be passed only in skeleton form and contain only the barest general principles. Other matters of principle, transcending procedure and the details of administration, matters which closely affect the rights and pro-

¹ *Ibid*, pp 53-54

perity of the subject, may be left to be worked out in the Departments, with the result that laws are promulgated which have not been made by, and get little supervision from, Parliament. Some of the critics suggest that this practice has so far passed all reasonable limits, as to have assumed the character of a serious invasion of the sphere of Parliament by the Executive. The extent of its adoption is, they argue, excessive, and leads not only to widespread suspicion and distrust of the machinery of Government, but actually endangers our civic and personal liberties.

(2) *Inadequate scrutiny in Parliament* The facilities afforded to Parliament to scrutinise and control the exercise of powers delegated to Ministers are inadequate. There is a danger that the servant may be transformed into the master.

(3) *The rights of the subject.* Delegated powers may be so wide as to deprive the citizen of protection by the Courts against action by the Executive which is harsh, or unreasonable.

(4) *Loosely defined powers* The delegated power may be so loosely defined that the area it is intended to cover cannot be clearly known, and it is said that uncertainty of this kind is unfair to those affected.

(5) *Difficulty of ensuring full publicity* While provision is usually made

- (a) for reasonable public notice, and
- (b) for consultation in advance with the interests affected, where they are organized,

this is not always practicable, particularly where the public affected is general and not special and organized.

(6) *Difficulty of obtaining redress* The privileged position of the Crown as against the subject in legal proceedings places the latter at a definite disadvantage in obtaining redress in the Courts for illegal actions committed under the authority of delegated legislation.

D MISS WILKINSON'S ARGUMENT FOR EXTENSION OF THE PRACTICE ¹

I feel that in the conditions of the modern state, which not only has to undertake immense new social services, but which before

¹ *Ibid*, Annex 6

long may be responsible for the greater part of the industrial and commercial activities of the country, the practice of Parliament delegating legislation and the power to make regulations, instead of being grudgingly conceded, ought to be widely extended, and new ways devised to facilitate the process

The danger of the present method of examining each piece of legislation in detail, whether by the whole House of Commons, or by an unwieldy Committee which proceeds on the cumbrous Commons method, is not that Parliament has no time to do its work, but that so much of its time is wasted

While the farce persists that each Member has the right to scrutinise the details of Bills, many of which he cannot even pretend to know anything about, members of Parliament are humiliated by being kept in the House as mere voting machines, while the experience and advice they could contribute as to the general plan to be pursued by the Government of the day is seldom utilised

Parliament can only deal really effectively with the principles and general plan of proposed legislation. The details should be left to the experts. This would make it possible for the House of Commons to discuss thoroughly and intelligently the broad outlines and enable a more real control over the Executive to be exercised than can possibly be the case when Parliament becomes an obstacle race, the sole duty of the Opposition being to provide the hedges and ditches on the course.

28 AN EXAMINATION FOR ADMINISTRATORS

Examinations for the administrative class of the British civil service, which is the most advanced class, can be taken only by persons between the ages of twenty-one and twenty-four. The candidate specifies which of the following services he wishes to enter: Home Service, North Ireland, India, Burma, Foreign Office, Consular Service. All candidates must take an oral examination and written examinations in the essay, in English, and in present-day problems or in elementary economics. In addition, depending upon the service he aspires to, he must take examinations in from four to eight other subjects selected from a list of eighty-seven which include such fields as Arabic, metaphysics and higher mathematics. The

questions are so framed that the candidate must demonstrate his qualifications for entrance into any branch of the service and not for any particular position. Consequently, the examinations are general, seeking to test intelligence and education in their broadest sense. The questions below were taken from the examinations given in 1937 (*Question Papers and Tables of Results, Administrative Group, Civil Service Commission, 1937.*)

I Present-Day

1. With which nation, other than your own, do you feel yourself most in sympathy, and why?

2. Which of the arts (including Literature) do you consider to be at present in the most flourishing condition in this country? Give your reasons.

3. What educational reforms do you think most desirable in this country?

4. State briefly the case for and against the Means Test.

5. What arguments can be used to support State aid to (A) a new industry, (B) a declining industry?

6. Do you consider any reforms desirable either in regard to the constitution of the House of Lords or in regard to its powers? Give your reasons.

II. Elementary Economics

1. Population sometimes moves towards "industrial centres," and sometimes industry moves toward population centres. Explain both kinds of movement and give examples.

2. In what ways does a competitive industry adjust itself when its productive capacity exceeds the demand for its products at a price at which, at the moment, an efficient firm in that industry can produce and cover its costs?

3. "A rise in price tends, sooner or later, to increase supply." Give cases in which this is (A) true, (B) not true, and explain the situation in each of the cases given.

4. What effects may monopoly have on the quantity produced and the price of a commodity?

5. What do you understand by the term "profit"? Under what conditions are profits large? Illustrate your answer by reference to the most profitable industries in this country today.

6 Commodity price changes may be (A) general, (B) relative, (C) both general and relative What does this statement mean? Describe the main effects of each type of change

III Constitutional Law

1. "The rule of law was (for Dicey) mainly a principle of political action, not a purely juridical principle governing the distribution of powers" Discuss this statement

3 Describe the procedure of the House of Commons in relation to sanctioning the expenditure of public funds What purpose is served by this procedure? What other means exist for the exercise of control by the government over public expenditure?

4 What action can the House of Commons take to protect itself as a body from subversive and defamatory attacks by a section of the Press?

5. To what extent can the Courts exercise control over public administration by local authorities and other statutory bodies?

IV Metaphysics

1 "Both the subjectivism and dualism of Descartes spring from the same root" Discuss

2 Discuss the part played by will in Descartes' philosophy

3 Is Locke's teaching in Book IV of the Essay consistent with his teaching in Book II?

4 How far is it true that Berkeley's philosophy is an attempt to mediate between philosophy and common sense?

5 State and comment on Berkeley's method of accounting for the established results of the natural sciences

29 ASPECTS OF THE CIVIL SERVICE

There are nearly 500,000 members of the British civil service Of this number approximately 150,000 comprise the classified service of administrators, executive and clerical workers, and the professional and scientific staffs The others are industrial workers, minor and manipulative workers mainly employees of the post office, messengers, porters, and charwomen. The following extracts relate to selected phases of the classi-

fied service Extract A describes the classification of employees followed since 1922 The nature of the work of the members of the administrative class, the highest of all, is described under B The last extract is taken from the official report of a Board of Inquiry in a case involving the activities of a Mr Gregory, a member of the service It lays down certain observations as to professional conduct

A THE CLASSIFICATION OF EMPLOYEES

(Herman Finer, *The British Civil Service*, 1937, pp 75-78.)¹

A The Administrative Class, covering the old First Division. It is open by competitive examination to men and women between the ages of 21 to 24 Until 1925 it was open to women between the ages of 22 to 30 to be chosen, when necessary, by an authoritative and impartial selection board with or without a qualifying examination In 1925, the class was opened to women on the same terms as to men, since that year down to and including 1936, only fourteen were successful, the total of women competing being 117, that is one-twelfth the number of men As the age indicates, it recruits mainly from the Honours Degree men of the universities. From 1923 to 1935 the class was recruited to the extent of 278 by competition and 82 by promotion

B. The Executive Class, to do the higher work of the Supply and Accounting Departments, and of other executive or specialised branches of the Service Clause 32 of the Report further specifies this kind of work.

"This work covers a wide field and requires in different degrees qualities of judgment, initiative and resource In the junior ranks it comprises the critical examination of particular cases of lesser importance not clearly within the scope of approved regulations or general decisions, initial investigations into matters of higher importance, and the immediate direction of small blocks of business In its upper ranges it is concerned with matters of internal organisation and control, with the settlement of broad questions arising out of business in hand or in contemplation, and with the responsible conduct of important operations"

¹ Reprinted by permission of the author, the Fabian Society, and George Allen & Unwin, Ltd, London

It is recruited normally by promotion Direct recruitment at 18 to 19 on a full secondary education basis comes in only in the absence of suitable promotees From 1923 to 1935 there entered by competition 483, by promotion 373, and 34 by nomination

C The Clerical Class covers the lower range of the old Second Class, with the addition of the Assistant Clerks and the Boy Clerks Clause 24 of the Reorganisation Report specifies its work as follows

"To this Class we would entrust all the simpler clerical duties in Public Departments, in so far as these are not assigned to Writing Assistants in accordance with the principles already stated, and in addition the following duties

"Dealing with particular cases in accordance with well defined regulations, instructions or general practice, scrutinising, checking and cross-checking straightforward accounts, claims, returns, etc., under well defined instructions,

"Preparation of material for returns, accounts, and statistics in prescribed forms,

"Simple drafting and précis work Collection of material on which judgments can be formed,

"Supervision of the work of Writing Assistants "

The class falls into two grades: a Higher Clerical Class and the Clerical Class pure and simple The latter is recruited among boys at 16 to 17, and among girls at 16½ to 17½, and the syllabus of the examination is framed with reference to the standard of development reached at the end of the intermediate stage of a secondary school course There is also the avenue of promotion Between 1923 and 1935, there entered 9,759 by competition, 2,277 by promotion, and 2,126 by nomination

D There is a Clerical Assistant Class Grade I, formerly the Writing Assistant Class, to do the simple mechanical work, like hand-copying, transcribing, filling up forms, addressing letters, the writing and counting of cards and forms, the preparation of lists, and charge of the filing system It is recruited from women at the age of 16 to 17, and there are opportunities of promotion to the Clerical Class

E Finally, there is a class of Copying Typists and Shorthand-Typists Their number in any Department are restricted to no more than half of the total staff The Typists are recruited between the ages of 16½ and 25 by a simple written competitive examination, and usually the Shorthand-Typists class is filled by competition in a written examination among eligible typists

B. THE WORK OF THE ADMINISTRATIVE CLASS

(Appendix VIII to Minutes of Evidence, Tomlin Report, quoted in H. Finer, *The British Civil Service*, pp. 85-89)

The volume of official work which calls for decisions affecting the public is nowadays such that it is physically impossible for the minister himself to give the decision except in the most important cases. And further, even when the issue is one which can and must be submitted for the Minister's personal decision, it has to be fairly and fully presented to him so that the material facts and considerations are before him. The need for services of this kind is present in every department which has a political head.

There is another common feature of all work which is strictly administrative in character. It is usually described—for instance, by the Reorganisation Committee of 1920—by the somewhat general expression “the formation of policy.” What is meant is, we think, this. The business of government, if it is to be well done, calls for the steady application of long and wide views to complex problems, for the pursuit, as regards each and every subject-matter, of definite lines of action, mutually consistent, conformed to public opinion and capable of being followed continuously while conditions so permit, and of being readily adjusted when they do not. Almost any administrative decision may be expected to have consequences which will endure or emerge long after the period of office of the Government by which or under whose authority it is taken. It is the peculiar function of the Civil Service, and the special duty of the Administrative Class of that Service, in their day-to-day work to set these wider and more enduring considerations against the exigencies of the moment, in order that the Parliamentary convenience of to-day may not become the Parliamentary embarrassment of to-morrow. This is the primary justification of a permanent administrative service. Vacillation, uncertainty and inconsistency are conspicuous symptoms of bad administration. The formation of policy in this limited sense—subject always to the control of the Minister and to the supreme authority of Parliament—is typical of administrative work in all departments and in relation to all subject-matters whether of greater or of lesser importance.

Thus the efficient performance of the administrative work of the various Departments calls in all cases for a *trained mental equipment of a high order, while in the particular case powers developed in some particular direction are needed* In some spheres, what is most wanted is *judgment, savoir-faire, insight and fair-mindedness, in others, an intellectual equipment capable of the ready mastery of complex and abstruse problems in, for instance, taxation or other economic subjects, imagination and constructive ability.*

C RULES OF CONDUCT

(From Report on the Gregory Case, February 25, 1928. Cmd 3037.)

"The first duty of a civil servant is to give his undivided allegiance to the State at all times and on all occasions when the State has a claim upon his services With his private activities the State is in general not concerned, so long as his conduct therein is not such as to bring discredit upon the Service of which he is a member. But to say that he is not to subordinate his duty to his private interests, nor to make use of his official position to further those interests, is to say no more than that he must behave with common honesty The Service exacts from itself a higher standard, because it recognises that the State is entitled to demand that its servants shall not only be honest in fact, but beyond the reach of suspicion of dishonesty. It was laid down by one of His Majesty's Judges in a case some few years ago that it was not merely of some importance but of fundamental importance that in a Court of Law justice should not only be done, but should manifestly and undoubtedly be seen to be done, which we take to mean that public confidence in the administration of justice would be shaken if the least suspicion, however ill-founded, were allowed to arise that the course of legal proceedings could in any way be influenced by improper motives. We apply without hesitation an analogous rule to other branches of the public service A civil servant is not to subordinate his duty to his private interests, but neither is he to put himself in a position where his duty and his interests conflict. He is not to make use of his official position to further those interests, but neither is he so to order his private affairs as to allow the suspicion to arise that a trust has been abused or a confidence betrayed. These

obligations are, we do not doubt, universally recognised throughout the whole of the Service, if it were otherwise, its public credit would be diminished and its usefulness to the State impaired.

"It follows that there are spheres of activity legitimately open to the ordinary citizens in which the civil servant can play no part or only a limited part. He is not to indulge in political or party controversy lest by so doing he should appear no longer the disinterested adviser of Ministers or able impartially to execute their policy. He is bound to maintain a proper reticence in discussing public affairs and more particularly those with which his own Department is concerned. And lastly his position clearly imposes upon him restrictions in matters of commerce and business from which the ordinary citizen is free."

30 CRITICISMS OF THE CIVIL SERVICE

Admitting that the reputation of the British Civil Service has been deservedly high, Professor Harold J. Laski nevertheless makes some important criticisms (H. J. Laski, "The British Civil Service," *The Yale Review*, XXVI [winter, 1937], 333-50. Copyright Yale University.)¹

There are some weaknesses in the British system upon which it is important to lay emphasis. Part of them relate to the special character of the administrative class and its functions; part of them are true of the service as a whole. I cannot do more here than recount them in general principle, but each of them is of serious import in relation to the future of the system.

1. The administrative class, being almost wholly drawn from university students, comes from too narrow a range of social experience. This is particularly true of the Foreign Office, where special conditions of entry still obtain. The result is to narrow the insight into policy, into the vision of future experiment deemed adequate by men whose lives are largely shaped by the fact that they come from the middle and upper-class families of Great Britain. This is the result of two facts: that university education in Great Britain is still largely confined to the children of those classes, and that the

¹ Reprinted by permission of *The Yale Review*

entrance examination for the administrative class is still heavily weighted in favor of those who have been to Oxford or Cambridge

2 It may be doubted whether the lines between the different classes of the service are not too rigidly drawn There is a good deal of ability in the lower ranks which never gets its full opportunity to be tried out on work commensurate with its capacity

3 Insufficient attention is paid to the problem of organizing educational opportunities for the lower ranks The result is a wastage of potential ability which, if adequately trained, might be of high value

4 The pension system is over-rigid A considerable number of people in the service find themselves unsuited to it after some years' experience, but unfortunately, they do not retire because they have insufficient means to begin life afresh A number ought to retire at an earlier age than sixty It would be well worth while to reorganize the pension system so as to provide for these types by way of special treatment

5 There is a danger of the administrative class being too narrowly confined to long years of British experience only. A good deal can be said for a system of sabbatical leaves in which officials could gain experience of alternative methods of administration, and for an arrangement with bodies like the League of Nations and the International Labor Office for special short-term work there

6 The class composition of the Foreign Office and the diplomatic service is far too narrow, at the present time, something near to fifty per cent of the natural diplomatic ability of Great Britain is concentrated there The consular service should be amalgamated with both the Foreign Office and the diplomatic service, and the present necessity of a nomination to the examination for the Foreign Office should be discontinued

7 In the British system, the pivot of the whole administrative structure is the Treasury, and "Treasury control" is the decisive factor in all innovation in policy There is, moreover, an increasing tendency for the chief Treasury officials to become the leading administrators of other departments by promotion The effect of this is of dubious value

8 Too little consideration has been paid, in discussions of the British civil service, to the impact of "departmental policy" upon ministerial activity A department comes, by tradition, to have a policy of its own, and this is represented, and fought for, by very

able men. They tend, therefore, to seek for the acceptance of their "departmental policy" by successive Ministers in different administrations. They also, no doubt from the highest considerations, tend to dislike all policies which differ from theirs, and, no doubt only half consciously, they tend to obstruct rapid implementation on the ground that time will always bring the Minister to their view . . .

9 This brings me to a point of decisive importance. In a direct way, there is little political partisanship in the British civil service, and the professional tradition is probably strong enough to overcome in most officials any tendency in that direction. But partisanship is a much subtler thing than direct hostility to a ministerial policy, and, where the latter is present, Mr Henderson's handling of Lord Lloyd in 1929 over the Egyptian problem shows that it can easily be controlled by a strong Minister. More difficult is the case where official prejudice, not consciously partisan, is so strong that it makes co-operation with a Minister who does not share that prejudice a difficult matter. Could Sir Maurice Hankey, the Secretary of the Committee of Imperial Defense and one of the outstanding civil servants of modern times, who has recently informed a Royal Commission that the socialization of the manufacture of armaments would be a "national disaster" easily collaborate effectively with a government which was determined on such socialization?

CHAPTER V

THE HOUSE OF LORDS

31 THE GRANTING OF HONORS

SEVERAL types of honors are granted by the crown, presumably in recognition of meritorious service. In addition to peerages, there are several orders whose members are knights and baronets, such as the Order of St Michael and St George. Membership in these permits the prefix "Sir" to be used with the name. Whereas peerages are inherited, membership in the orders of knights and baronets does not pass on to descendants. Largely because of a general suspicion that the granting of honors had been attended by abuses, a special committee was appointed in 1922 to investigate the situation and to make recommendations. A law was passed in 1925 to deal with the subject. Extracts from the report and the law are given below. (*Royal Commission on Honors, Report, 1922, Cmd 1789*)

5 The King is the fountain of Honour, and all grants are made by him, but in the selection of the recipients of these grants, as in other things, he is in use to act not on his own initiative but on the advice of his Ministers. The Minister responsible for advising is the Prime Minister except in certain special cases, e.g., Order of St Michael and St. George, Naval, Military, and Air Force honours, Orders of the Star of India and of the Indian Empire, where the Minister in charge tenders his advice direct. With these exceptions, and that of the Royal Victorian Order, which is a private Order and is bestowed by the King alone and upon his own selection, no grant of honour is ever made by the King except upon

the recommendation of the Prime Minister Even in the case in which the King might wish that an Order or a Peerage should be given to a member of his own Household, the recommendation would appear on the Prime Minister's list

6 It follows therefore that the whole true responsibility rests on the Prime Minister and we think that it is of the greatest importance that this position should be fully maintained and that any suggestions which we may feel able to make should be looked on as mere aids to the Prime Minister and not as in the slightest degree relieving him of the responsibility which, in a question with the King he must truly bear

16 We now come to the part of the system which has given rise to widespread suspicion that abuses exist—we mean the political honours As to the mere existence of political honours there is room for a difference of opinion This question is outside the scope of our reference, but we think it very desirable to state quite distinctly two things The first is that the practice of giving honours for purely political service has been continuously followed ever since the growth and development of the Party system of Government. The second is that nearly all the witnesses that we have examined proffered the opinion that such a system is right and ought to prevail

17. The method of making up the political list, as detailed to us by the members of the various administrations of the last 30 years, has varied in slight particulars but it has been substantially the same Those rewarded for political services may be divided into the two classes of those who are, and those who are not, members of the House of Commons As regards the former, the person who would frame and put the list tentatively before the Prime Minister would always be his Patronage Secretary As regards the second, it would generally be the Head of the Party Organisation, who might also be the Patronage Secretary The practice seems to have varied as to how far the list of the Party Organiser would be submitted to the Patronage Secretary, if a separate officer, before it found its way to the Prime Minister But whether with or without co-operation, the lists of these two functionaries would be put before the Prime Minister There have also been names of persons submitted by the Prime Minister which have not found their way to him through either of the lists mentioned

18 It will, of course, be readily understood that all this does not

mean that the true initiative as to individual names rests with either the Patronage Secretary or the Party Manager. Suggestions and applications come from all quarters—sometimes from the candidate for honours himself, but more often from his friends. The friends, in the case of a member of the House of Commons, would probably be members of the House themselves, and in the case of other persons, either members of the House representing the constituencies where the proposed recipient has had his sphere of activity or influential persons in the Party in the same neighbourhood.

19 From the lists so submitted, and with such advice from either the framers of the lists or from other colleagues as he chooses, the Prime Minister makes his final selection. He naturally enquires from the makers of those lists the claims of each man that is put forward. He must obviously be dependent to a great extent on the information supplied to him, and it is too much to expect that he should be personally conversant with the services and position of every gentleman whose name is on the list. We put the question to each Prime Minister in turn, whether he had ever been cognisant of any bargain or promise to the effect that an honour would be contingent on a contribution to Party funds. We received the answer that we expected, that they had not. Answers to the same effect were given by the Patronage Secretaries and Party Managers.

20 The existence of Party funds is notorious and the necessity for such existence under modern conditions as to the conduct of elections is equally so. Indeed, two of the Party Managers with great frankness informed us, giving actual figures, as to the sources of supply. They were at the same time emphatic that, so far as they were concerned, no bargain of the sort alluded to had ever taken place.

(Statutes 15 and 16 Geo. 5 1925, vol. 2, ch. 72, p. 1578.)

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:

1—(1) If any Person accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, or for any purpose, any gift, money or valuable consideration or reward for procuring or assisting or endeavouring to procure the grant of a dignity or title of honour to any person, or otherwise

in connection with such a grant, he shall be guilty of a misdemeanour

(2) If any person gives or agrees or proposes to give, or offers to any person any gift, money or valuable consideration or reward for procuring or assisting or endeavouring to procure the grant of a dignity or title of honour to any person, or otherwise in connection with such a grant, he shall be guilty of a misdemeanour.

32 THE CREATION OF PEERAGES

The House of Lords consists of peers temporal and spiritual. There are twenty-six of the latter who, as archbishops and bishops, represent the Church of England. The former include the sixteen peers of Scotland, the twenty-eight of Ireland, the seven "law lords," and the hereditary peers who number between six hundred and fifty and seven hundred. Hereditary peerages are created by the king on the advice of his ministers. There are two methods by which they may be created: by a writ of summons to the House of Lords, or by a letter patent. In practice the latter method is invariably used at the present time. The pressure on the government to create new peerages is always strong. Men who have distinguished themselves in the service of the state, as speaker of the House of Commons, as prime minister, or as a high officer in the fighting forces, are usually offered peerages. Men of wealth have ways of bringing their claims to the attention of the government, often by supporting the party financially. Furthermore, the party in power may wish to create peerages to increase its voting strength in the House of Lords. This has been especially true of the Liberal and Labour parties, due to the fact that the House of Lords is dominated by the Conservatives.

The first selection below is an illustration of a letter patent. The second gives a statistical account of the creation of peerages.

A. A LETTER PATENT ¹

GEORGE THE FIFTH by the Grace of God of Great Britam Ireland and the British Dominions beyond the Seas King Defender of the Faith To all Lords Spintual and Temporal and all other Our Subjects whatsoever to whom these Presents shall come Greeting Know Ye that We of Our especial grace certain knowledge and mere motion do by these Presents advance create and prefer Our to the state degree style dignity title and honour of Baron of in Our County of And for Us Our heirs and successors do appoint give and grant unto him the said name state degree style dignity title and honour of Baron to have and to hold unto him and the heirs male of his body lawfully begotten and to be begotten Willing and by these Presents granting for Us Our heirs and successors that he and his heirs male aforesaid and every of them successively may have hold and possess a seat place and voice in the Parliaments and Public Assemblies and Councils of Us Our heirs and successors within Our United Kingdom amongst other Barons And also that he and his heirs male aforesaid successively may enjoy and use all the rights privileges pre-eminences immunities and advantages to the degree of a Baron duly and of right belonging which other Barons of Our United Kingdom have heretofore used and enjoyed or as they do at present use and enjoy.

In Witness, &c

B. PEERAGES CREATED BY POSTWAR GOVERNMENTS ²

Asquith and Lloyd George Cabinets	1915-22	. 113	peerages
Bonar Law Government . .	1922-23	. 3	peerages
Baldwin Government . .	.. 1923-24	8	peerages
MacDonald Government	1924	. 4	peerages
Baldwin Government . . .	. 1924-29	44	peerages
MacDonald Government	1929-31	. 21	peerages
MacDonald National Government	1931-35	36	peerages
Baldwin National Government . .	. 1935-37	31	peerages
Chamberlain National Government . .	1937—	.... 2	peerages

¹ Printed in E. C. S. Wade and G. C. Phillips, *Constitutional Law* (2nd ed.), Appendix C, pp. 505-6

² *Constitutional Year Book*, 1938, p. 147

The average for the whole period is 83. The Conservative proposal of 150 peers to be elected by their order to sit in the new House would, therefore, give them a representation about 80 per cent greater than their average attendance in the post-war period.

Table II gives the divisions since 1919 in our period which have aroused sufficient interest to bring more than 100 peers to vote. In the whole period there have been 439 divisions.

TABLE II

No. of Divisions of over 100, 1919-1931	119
No. of Divisions of over 200, 1919-1931	13

Divisions over 100 are, therefore, 27 per cent, those of over 200 2.9 per cent of the total number of divisions. There are 111 peers who did not, in our period, take part in any division.

Table III gives the contribution made by peers to the debates, as distinct from the divisions in the House of Lords.

TABLE III

Peers who have spoken at least once, 1919-1931	358
Peers who have spoken at least twice, 1919-1931	311
Peers who have spoken three or more times, 1919-1931	277
Peers who have spoken ten or more times, 1919-1931	98

From this it will be observed that 371 peers have never spoken, in our period, in the debates, and that less than two-thirds of the number upon whom the Conservative proposal would confer membership have made an annual speech during those years.

We have thought it of value, also, to discover what interests find their representation in the House of Lords during our period in order to see whether its composition is markedly different from that of the House of Commons. Table IV, accordingly, takes the representation of public companies and interests in both Houses in the Parliament of 1924—a Parliament we have selected as fairly representative, in the popular side, of the post-war period.

It will be seen from [Table IV] that the House of Lords represents economic interests with an intensity even greater than that of the House of Commons. It does not appear that its representatives in a new second chamber would be likely to bring into a new second chamber any new or different outlook not available to it in other ways.

TABLE IV

Type of Interest	No of Directors in Lords	No of Directors in Commons
Amusement (Theatres, Cinemas, etc) .	12	7
Banks	67	21
Brewers and Distillers	12	16
Building	1	11
Chemicals	15	17
Coal, Iron and Steel	27	35
Distribution	14	24
Engineering and Shipbuilding	49	52
Finance and Investment	74	53
Food	7	19
Gas, Water, Electricity	13	20
Hotels and Catering	8	6
Insurance	112	42
Landowners	246	29
Mining (excluding Coal)	29	8
Newspapers	6	17
Petroleum	15	16
Printing and Paper	6	12
Railways	64	24
Shipping	26	31
Tea, Coffee, Rubber	13	9
Telegraph	8	.
Textiles	15	31
Total interests represented	839	500

We have, lastly, tabulated the number of peers who have held Government office in each of the successive ministries from 1919-1931.

TABLE V.

Ministry	No of Peers in Cabinet	No of Peers in other offices (including Household)
Lloyd George	3	19
Bonar Law	7	17
Baldwin	8	18
MacDonald	5	11
Baldwin	6	13
MacDonald	4	9
MacDonald (October, 1931)	4	16

It is worth noting, also, that of the nineteen peers who have held Cabinet office, fourteen have previously sat in the House of Commons.

34 A DEFENSE OF THE HEREDITARY PRINCIPLE

Among both proponents and opponents of further reform of the House of Lords, there are many who heartily approve the inclusion of hereditary peers in the second chamber. A good defense of the hereditary principle was made by the Honorable Henry Raikes, member of the House of Commons, in a debate which occurred in the House on November 30, 1932. (*Parliamentary Debates*, CCLXXII, 895-96.)

For the moment, I want to deal with that which is of vital importance, namely, the question of the hereditary principle. You have, I submit, two alternatives, either to abolish the whole hereditary principle, which, I say deliberately, would be fatal to the prestige of the new chamber, or you have to have a really substantial hereditary element in that chamber. If you try to compromise, and simply put in a few hereditary peers just to gild the pill, you get all the worst elements of both systems. You will lose your prestige and gain no real power by so doing. I propose saying a word or two on why many of us hold that the hereditary principle is defensible and can be defended most strongly both on the platform outside and in this House. In the first instance, provided you have a limited number of hereditary peers and a limited House, and provided your limited number of hereditary peers are selected by the peers as a whole, you will have the best of the bunch and the pick of the order of the peers. There are very few on any benches who would deny that those who sit regularly in the Second Chamber do their job very efficiently and well. If that is so, surely for, at any rate, part of your chamber it is very advisable to have the pick of those men continuing to sit. As a Conservative, I much prefer to take up a thing which works well in practice than to be led away into some mere paper, theoretical scheme which may have no effect whatever and may work all wrong.

There are further reasons which can be adduced for a substantial hereditary element. You must have some form of traditional continuity if your new House is to maintain its prestige at all. After

all, the Upper Chamber has a certain revising atmosphere about it. It has men in it who have a certain inherited sense of judicial fairness and of revising legislation. Very often Hon. Members who are far from being Conservative stand up and speak most strongly in favour of the traditions and privileges of this House, and they do it because they realise that the traditions of this House are a very great part of it. Suppose that this House were to be reformed on an entirely different basis, it would lose, simply from the fact that it had broken from its traditions and come on to something new, a tremendous amount of its prestige, and I suggest that it would lose a considerable amount of its power for legislative purposes. That applies also, I maintain, to the upper House. I say in all sincerity that you cannot define atmosphere. It cannot be done. But the intangible things of life are very often important and mean the most in the long run, and if you have a real traditional element running through your Constitution it not only makes your Constitution favoured in the eyes of the people but it makes it work.

There is another point in that connection upon which I wish to say a word. You have a certain inherited tradition of public service in the Second Chamber. In a material age and at a time when we hear so much about the lust for profit and the lust for advancement, it is not at all a bad thing to embody anew in your Constitution the idea that high position and responsibility demand active service for the State. Undoubtedly, if you embody the spirit of service you are embodying something which cannot be bought with money and which often cannot be obtained by practice. You are embodying something which, in many instances, is a traditional feature. It is a peculiar attribute of the hereditary system that it does produce those traditional features of fairness and broadness of vision which you do not always get in all elected assemblies.

35 THE ROLE OF THE UPPER HOUSE

In many countries difficult constitutional problems have arisen as to the proper role of second chambers. In 1917 a special committee was appointed in England to study and report on the subject. No formal report was formulated but a letter embodying some opinions of the group was written by Viscount Bryce and presented to the prime minister in 1918. That

part of it which deals with the place of a second chamber in the British constitutional system is given below (*Conference on the Reform of the Second Chamber Letter from Viscount Bryce to the Prime Minister, 1918 Cmd 9038*)

FUNCTIONS APPROPRIATE TO A SECOND CHAMBER

6—(1) The examination and revision of Bills brought from the House of Commons, a function which has become more needed since, on many occasions during the last thirty years, the House of Commons has been obliged to act under special rules limiting debate

(2) The initiation of Bills dealing with subjects of a comparatively non-controversial character which may have an easier passage through the House of Commons if they have been fully discussed and put into a well-considered shape before being submitted to it

(3) The interposition of so much delay (and no more) in the passing of a Bill into law as may be needed to enable the opinion of the nation to be adequately expressed upon it. This would be specially needed as regards Bills which affect the fundamentals of the Constitution or introduce new principles of legislation, or which raise issues whereon the opinion of the country may appear to be almost equally divided

(4) Full and free discussion of large and important questions, such as those of foreign policy, at moments when the House of Commons may happen to be so much occupied that it cannot find sufficient time for them. Such discussions may often be all the more useful if conducted in an Assembly whose debates and divisions do not involve the fate of the Executive Government

ELEMENTS THAT OUGHT TO FIND A PLACE IN THE SECOND CHAMBER

7—(1) Persons of experience in various forms of public work, such as judicial work, Local Government work, Civil Service work, Parliamentary work, persons possessing special knowledge of important departments of the national life, such as Agriculture, Commerce, Industry, Finance, Education, Naval and Military Affairs; and persons who possess a like special knowledge of what are called

Imperial Questions such as Foreign Affairs and matters affecting the Overseas Dominions

(2) Persons who, while likely to serve efficiently in a Second Chamber, may not have the physical vigour needed to bear the increasing strain which candidacy for a seat in the House of Commons and service in it involve

(3) A certain proportion of persons who are not extreme partisans, but of a cast of mind which enables them to judge political questions with calmness and comparative freedom from prejudice or bias No Assembly can be expected to escape party spirit, but the excesses of that spirit usually can be moderated by the presence of a good many who do not yield to it.

POSITION WHICH THE SECOND CHAMBER OUGHT TO HOLD IN OUR CONSTITUTIONAL SYSTEM

8—It was agreed that a Second Chamber ought not to have equal powers with the House of Commons, nor aim at becoming a rival of that assembly In particular, it should not have the power of making or unmaking Ministries, or enjoy equal rights in dealing with finance. This was prescribed not only by long-established custom and tradition, but also by the form of our Constitution, which makes the Executive depend upon the support of the House of Commons, and would be seriously affected in its working by extending to a Second Chamber the power of dismissing a Government.

All precautions that could be taken ought to be taken to secure that in a Reformed Second Chamber no one set of political opinions should be likely to have a marked and permanent predominance, and that the Chamber should be so composed as not to incur the charge of habitually acting under the influence of party motives.

The Second Chamber should aim at ascertaining the mind and views of the nation as a whole, and should recognize its full responsibility to the people, not setting itself to oppose the people's will, but only to comprehend and give effect to that will when adequately expressed.

It should possess that moral authority which an assembly derives not only from the fact that its members have been specially chosen to discharge important public duties but also from their personal

eminence, from their acknowledged capacity to serve the nation, and from the confidence which their characters and careers are fitted to inspire

It should, by the exercise of this authority, and especially by evincing a superiority to factious motives, endeavour to enlighten and influence the people through its debates, and be recognized by the people as qualified, when a proper occasion arose, to require the reconsideration of important measures on which their opinion had not been fully ascertained.

Lastly, the Conference was also of opinion that it would enhance the authority of the Second Chamber, and would be in line with the whole constitutional history of this country, which has been marked by a steady and gradual development, broken by no sudden and violent change, that so far as it is possible a continuity should be preserved between the ancient House of Lords and the new Second Chamber, the best traditions of the former being handed on to the new body, so as to enhance its dignity, and make a seat in it an object of legitimate ambition. The Great Council of the Nation from which the House of Lords directly descends, the House of Commons having been added to it in the thirteenth century, is the oldest and most venerable of all British institutions, reaching back beyond the Norman Conquest, and beyond King Alfred, into the shadowy regions of Teutonic antiquity

36 THE PARLIAMENT ACT (1911)

Prior to the enactment of the Parliament Act in 1911, the House of Lords had power to reject nonfinancial bills, but by a tradition of long standing it left final authority in finance legislation with the House of Commons. On several occasions the defeat by the upper chamber of public bills, such as Gladstone's second home rule bill of 1893, had brought to the front the question of reforming the House of Lords. Affairs were brought to a crisis when, in 1909, the Lords broke with the established tradition and asserted their legal rights by defeating a finance measure which had been proposed by Lloyd George as the chancellor of the exchequer. Efforts for reform were renewed and the following act was passed, leaving the

composition of the House of Lords intact but modifying its power (1 & 2 Geo V, ch. 13)

1 —(1) If a Money Bill, having been passed by the House of Commons and sent up to the House of Lords at least one month before the end of the session, is not passed by the House of Lords without amendment within one month after it is so sent up to that House, the Bill shall, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal Assent being signified, notwithstanding that the House of Lords have not consented to the Bill

(2) A Money Bill means a Public Bill which in the opinion of the Speaker of the House of Commons contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration, or regulation of taxation, the imposition for the payment of debt or other financial purposes of charges on the Consolidated Fund, or on money provided by Parliament, or the variation or repeal of any such charges, supply, the appropriation, receipt, custody, issue or audit of accounts of public money, the raising or guarantee of any loan or the repayment thereof, or subordinate matters incidental to those subjects or any of them. In this subsection the expressions "taxation," "public money," and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes

(3) There shall be endorsed on every Money Bill when it is sent up to the House of Lords and when it is presented to His Majesty for assent the certificate of the Speaker of the House of Commons signed by him that it is a Money Bill. Before giving his certificate, the Speaker shall consult, if practicable, two members to be appointed from the Chairmen's Panel at the beginning of each Session by the Committee of Selection

2.—(1) If any Public Bill (other than a Money Bill or a Bill containing any provision to extend the maximum duration of Parliament beyond five years) is passed by the House of Commons in three successive sessions (whether of the same Parliament or not), and, having been sent up to the House of Lords at least one month before the end of the session, is rejected by the House of Lords in each of those sessions, that Bill shall, on its rejection for the third time by the House of Lords, unless the House of Commons direct

to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal Assent being signified thereto, notwithstanding that the House of Lords have not consented to the Bill. Provided that this provision shall not take effect unless two years have elapsed between the date of the second reading in the first of those sessions of the Bill in the House of Commons and the date on which it passes the House of Commons in the third of those sessions

(2) When a Bill is presented to His Majesty for assent in pursuance of the provisions of this section, there shall be endorsed on the Bill the certificate of the Speaker of the House of Commons signed by him that the provisions of this section have been duly complied with

(3) A Bill shall be deemed to be rejected by the House of Lords if it is not passed by the House of Lords either without amendment or with such amendments only as may be agreed to by both Houses

(4) A Bill shall be deemed to be the same Bill as a former Bill sent up to the House of Lords in the preceding session if, when it is sent up to the House of Lords, it is identical with the former Bill or contains only such alterations as are certified by the Speaker of the House of Commons to be necessary owing to the time which has elapsed since the date of the former Bill, or to represent any amendments which have been made by the House of Lords in the former Bill in the preceding session, and any amendments which are certified by the Speaker to have been made by the House of Lords in the third session and agreed to by the House of Commons shall be inserted in the Bill as presented for Royal Assent in pursuance of this section

Provided that the House of Commons may, if they think fit, on the passage of such a Bill through the House in the second or third session, suggest any further amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the House of Lords, and, if agreed to by that House, shall be treated as amendments made by the House of Lords and agreed to by the House of Commons, but the exercise of this power by the House of Commons shall not affect the operation of this section in the event of the Bill being rejected by the House of Lords

3—Any certificate of the Speaker of the House of Commons

given under this Act shall be conclusive for all purposes, and shall not be questioned in any court of law

4—(1) In every Bill presented to His Majesty under the preceding provisions of this Act, the words of enactment shall be as follows, that is to say

“Be it enacted by the King’s most Excellent Majesty, by and with the advice and consent of the Commons in this present Parliament assembled, in accordance with the provisions of the Parliament Act, 1911, and by authority of the same, as follows.”

(2) Any alteration of a Bill necessary to give effect to this section shall not be deemed to be an amendment of the Bill

5—In this Act the expression “Public Bill” does not include any Bill for confirming a Provisional Order

6—Nothing in this Act shall diminish or qualify the existing rights and privileges of the House of Commons

7.—Five years shall be substituted for seven years as the time fixed for the maximum duration of Parliament under the Septennial Act, 1716.

37. THE PARLIAMENT ACT IN OPERATION

As the text of the Parliament Act shows, the House of Lords has, since 1911, been able to delay legislation and to propose amendments to pending measures. Such use as it has made of these powers has been influenced always by its strong conservative leanings. The excerpt below describes the actual role played by the Lords since 1911. (Herman Finer, *The Theory and Practice of Modern Government*, 1932, pp 448-49.) ¹

From the plain terms of the Act, and the general nature of political forces in the country, the following deductions could be made as to the parliamentary results of this reform.

(1) That in times of Conservative rule the Lords would use their power of amendment on details, excepting where the government was swept along by electoral forces to undertake social reforms, but that ordinarily the Lords would be nothing but the

¹ Reprinted by permission of the author and of The Dial Press, New York

stage in which verbal amendments, and the government's own voluntary amendments, were undertaken

(2) That in times of Liberal or Labour governments the Lords would not hesitate to use their power in the case of a serious clash of opinion, (a) would put the Government to the difficult task of finding time to do their work thrice over and (b) obtain concessions where the Government urgently needed the Bill and could not find the time or did not wish to wait three years

(3) That in times of Liberal or Labour governments the House of Lords would virtually be the supporter of the Conservative Opposition in the House of Commons and work hand-in-glove with its leaders.

Experience since 1911 has amply borne out such deductions, but two subjects need special emphasis. The first is that the House of Lords has been used by all governments as a stage in which they have introduced technical or political amendments suggested by the influence of the sense of the House of Commons, recommended by experts, or solicited by interested groups. Yet it is obvious that any democratically composed body, a committee of the House of Commons itself, would serve this function for the amendments we speak of are rarely initiated by the Lords or by members of the Government. Secondly, the existence of a minority government, unsure of parliamentary support, though normally possessed of it, becomes the sport of the House of Lords. It can be squeezed successfully, especially where a Bill is urgent, and where a Bill is urgent any government makes concessions rather than enter upon a time-wasting constitutional conflict. Not one bill, excepting the Home Rule Bill of 1912, has been forced through the procedure of the Parliament Act. A survey of the legislative behaviour of the House of Lords since 1919 serves, further, to show the social groups to whom it has been generous and those to which it has been ungenerous. In the first class are landlords, the clergy, the taxpayers generally (where administrative institutions requiring the expenditure of money have been rejected), employers, rentiers, agriculturists, agricultural machinery manufacturers, landlords who wished power of eviction from their property, criminals in the course of trial (regarding evidence, witnesses, Grand Juries, etc., but not sentences), private electricity undertakings, ordinary jurisdiction as against administrative jurisdiction (Landlord and Tenant Bill, 1927), individual rather than governmental or municipal en-

terprise It has been positively unfavourable to State control over private enterprise and activities, local and central government expenditure, public libraries, housing efforts, agricultural labourers, the unemployed insured, allotment holders, education and trade unions

38. REFORM PROPOSALS

The remark was made by Bagehot many years ago that the cure for an admiration of the House of Lords was to go and look at it The Parliament Act (1911) has, of course, greatly decreased the powers of the House of Lords, although it left its composition intact While that statute has proved, thus far, to be a workable compromise, it does not have the enthusiastic support of either the friends or enemies of the Lords. Unfriendly critics point out that the House of Lords is as much out of tune with the times as ever, that it is distinctly a class body, the foe of progressive measures sponsored by Labour or Liberal ministries The Labour party has advocated the abolition of the upper chamber altogether, leaving the House of Commons as the sole legislative chamber for the realm

Friends of the House of Lords, on the other hand, are anxious for new legislation which will add to its power Rarely suggesting a return to its former status, they propose amendments to the Parliament Act, as follows (1) that a joint committee from both houses, instead of the speaker, certify what bills are to be considered money bills, (2) that no alteration in the House of Lords henceforth be possible without its own consent. Several plans, notably the Bryce Plan (1918) and the Lloyd George coalition scheme of 1922, have proposed some modification of the composition of the House, allowing a representative group from the peerage to sit, and adding members from outside the peerage

The problem is a difficult one The present upper chamber does not seem entirely consistent with the organization of a democratic state, yet its powers can hardly be reduced below their present status. To strengthen the personnel of the House by bringing in outsiders seems unjustifiable unless it is to be

given greater power. The proposal to abolish it outright meets with the objection, as argued in the Bryce Report of 1918, that a second chamber serves very useful purposes in reviewing legislation and in saving the time of the House of Commons

The resolutions given below were drafted by a committee of the cabinet and presented to the House of Lords for discussion in 1922. The project met with little favor either among the peerage or in the country at large, and was abandoned. Nothing in the way of a government plan for reform has since been proposed, although discussions of the problem have continued both in the House of Commons and throughout the nation

1 That this House shall be composed, in addition to peers of the blood royal, lords spiritual, and law lords, of (a) members elected, either directly or indirectly, from the outside, (b) hereditary peers elected by their order, and (c) members nominated by the crown, the numbers in each case to be determined by statute

2 That, with the exception of peers of the blood royal and the law lords, every other member of the reconstituted and reduced House of Lords shall hold his seat for a term of years to be fixed by statute, but shall be eligible for reelection

3 That the reconstituted House of Lords shall consist approximately of 350 members

4 That while the House of Lords shall not amend or reject money bills, the decision as to whether the bill is or is not a money bill, or is partly a money bill and partly not a money bill, shall be referred to a joint standing committee of the two Houses, the decision of which shall be final. That this joint standing committee shall be appointed at the beginning of each new parliament, and shall be composed of seven members of each House of Parliament, in addition to the Speaker of the House of Commons who shall be ex officio chairman of the committee

5 That the provisions of the Parliament Act, 1911, by which bills can be passed into law without the consent of the House of Lords during the course of a single parliament, shall not apply to any bill which alters or amends the constitution of the House of Lords as set out in these resolutions, or which in any way changes the powers of the House of Lords as laid down in the Parliament Act and modified by these resolutions

CHAPTER VI

THE HOUSE OF COMMONS

39. THE COMPOSITION OF THE HOUSE OF COMMONS

THE tables below give a picture of the social and occupational structure of the House of Commons after the 1935 general election. Excluding the members from the Scottish universities (which had not announced their election results at the time when this compilation was made) and a few independent members, the summary is complete. Six hundred and five of the six hundred and fifteen members are included in the tables (*The New Statesman and Nation*, New Series, X, November 30, 1935, 805) ¹

TABLE I
THE 430 GOVERNMENT MEMBERS
(Conservative-dominated National Coalition)

Rentiers (investors in productive enterprises)	129	Banking and finance	11
Business men	85	Electricity interests	5
Barristers	52	Coal and iron	7
Solicitors	7	Architects	2
Brewers	4	Newspapers and journalists	13
Soldiers and sailors	23	Agriculture	10
Insurance	6	Engineering	13
Railways and shipping	17	Textiles	4
Retired public officials	6	Workingman	1
Doctors	9	Aristocrats (with an hereditary title, or son of a titled person)	45
Accountants	6	Others	18
Authors	2		

¹ Reprinted by permission *The New Statesman and Nation*, London.

TABLE II
THE 155 LABOUR MEMBERS

Trade-union members . . . . .	...	77
Miners	34	
Railwaymen	10	
Transport workers	7	
General workers	6	
Distributive workers	6	
(Remainder among 10 trades)		
Business men	12	
Co operative	8	
Clergymen	3	
Political officials	5	
Other officials	4	
Barristers	8	
Solicitors	2	
Aristocrats (titled or son of a titled person)	1	
Rentiers (investors)	2	
Teachers	8	
Journalists	5	
Engineers	2	
Naval officer	1	
Minor professions	5	
Others	9	

TABLE III
THE 20 LIBERAL MEMBERS

Rentiers (investors)	8	Barristers	2
Solicitors	2	Farmer	1
Business	5	Architect	1
Journalist	1	Aristocrats	3

40. THE SPEAKER

The election of a speaker is one of the first acts of a new House of Commons. The election is only a formality if the former speaker has been returned to the House, for tradition dictates that the speaker shall be re-elected as long as he may continue to be a member of the House, and desires the office. The present speaker was elected in 1928. The speech given below was made November 26, 1935, on the occasion of his fourth election to the office. The speech tells something of the qualifications of a good speaker and illustrates conventional election procedures. (*Parliamentary Debates, CCCVII, 1935, 2-7.*)

Lieut-Colonel Spender-Clay (addressing himself to the Clerk of the House, who, standing up, pointed to him and then sat down):

Sir Horace Dawkins,—In accordance with the Gracious Message which we have received from the Throne, I beg to propose "That Captain the Right Hon Edward Algernon FitzRoy do take the Chair of this House as Speaker" The office of Speaker is, I suppose, the greatest dignity which this house can confer on any one of its Members, but it is an office which requires special qualifications It is not a job for an amateur It is not an office which can be lightly undertaken except by one who has served a long apprenticeship in studying the traditions and liberties of our House I have, of course, consulted the precedents, and I was very much impressed by the speeches of my predecessors as they appear in Hansard, but it seems to me that nearly every one of them endeavoured to find some new quality which he believed to be absolutely essential for the equipment of a perfect Speaker

I want, for a very short time, to give some consideration to what those qualities and qualifications are First, I think that the occupant of the Chair has to have Standing Orders at his finger tips he has to know them at any rate, better than any other man or woman in the House, with the possible exception of the learned Clerk. He has also to have something which is more indefinable He has to know the practice of the House, and the practice is entirely different from what appears in Standing Orders That can only be acquired by having a sense of sympathy with and understanding of what is desired by Members of the House themselves In addition, the Speaker has to listen to speeches, sometimes of inordinate length, which I can imagine must be very trying to him, because they upset his arrangements and he has afterwards to sympathise with and encourage some of us who come down to the House pregnant with a soul-stirring oration, but are unable to give delivery to it owing to the fact that we are unable to catch Mr Speaker's eye

Then, again, he has to take decisions on the spur of the moment We know how difficult it is in ordinary life to take a decision, but it is much more difficult when you have several hundred Members of the House, I will not say heated, but in some degree excited, about the question under consideration It is unthinkable that Mr Speaker, no matter how great the provocation may be, should lose his temper He has to have tact, he has to be impartial and he has to have the qualities of a peacemaker He has to be human and to have a sense of humour The qualifications which I have enu-

merated are not the qualifications of a human being, but are more the qualifications of an archangel. We do, however, expect, and in my experience we have been fortunate enough on almost every occasion to have, a superman as our Speaker.

There is another point which is not perhaps so present in the minds of all of us, that is, that the Speaker is always on duty. He may be absent from the House at times, but he has to be ready to come in at any moment. He is unlike the rest of us who, perhaps, about a quarter to eight may go to the Whips at the door and say that we have an important engagement outside, or that we have to make a speech to our constituents, and we will perhaps ring up at 10 o'clock to know if it is necessary to come back to the House. Mr Speaker cannot do that. He cannot leave the Palace of Westminster without the special permission of the House, and he has to remain in his room at the back of the Chair donned in those clothes with which we are familiar, which may be designed for appearance, but which do not appear to be my idea of comfort. There he has to sit until the House has risen.

The House expects much of the Speaker, but it also owes much to the Speaker. Not only that, but Mr Speaker's mornings are filled. He has to consult his advisers as to the business of the day and has to be prepared for any pitfalls which the hard-working Members of the House may seek to devise to spring upon him at the last moment. The right hon and gallant Gentleman whom I am proposing to this Office possesses more of the qualities that I have enumerated than any other Member of the House. I have known the right hon and gallant Gentleman for many years, probably more years than either he or I care to contemplate. I remember him when he was a subaltern in the 1st Life Guards, I remember his hunting with the Pytchley more than 40 years ago. I have sat with him in nine Parliaments, so that I am not without some qualification for giving his character. I would remind the House that this proposition is not a leap in the dark. The right hon and gallant Gentleman has filled the office of Speaker during two Parliaments, and before that he was Deputy-Chairman of Committees. He has been tried in the ordeal of the Chair and he has gained and retained the confidence of this House. I am sure that he has never made an enemy. It is for these reasons, which I believe to be good and sufficient, that I beg to move the Motion.

Mr Cape. I beg to second the Motion . . .

The House then having again unanimously called Captain Edward Algernon FitzRoy to the Chair, he was taken out of his place and conducted to the Chair by Lieut-Colonel Spender-Clay and Mr Cape

41 QUESTIONS ASKED IN THE HOUSE OF COMMONS

A portion of each day is normally given over to questions addressed by members to the appropriate ministry. Notice must be given in advance so that answers may be prepared. The questions are then printed on the orders of the day. Starred questions must be answered orally. They are generally treated briefly but may be made the subject of short discussions. Questions not starred may be answered in writing. The questions below are taken from the proceedings of the House of Commons for November 2 and 3, 1937 (*Parliamentary Debates*, CCCXXVIII, 1937-38, 729, 891, 902, 914.)

A. QUESTIONS FOR ORAL ANSWER

2. Mr Gallacher asked the Secretary of State for Foreign Affairs how many British ships are now held prisoner in ports under the control of General Franco, and for how long they have been detained in custody, whether any satisfactory reply has been received to British protests lodged concerning these ships, and what steps it is proposed to take to prevent future arrests of British ships on the high seas.

VISCOUNT CRANBORNE. The following British ships have been recently captured and detained in ports under the control of General Franco [there follows a list of seven ships].

MR GALLACHER. In view of the fact that these were deliberate acts of piracy, will the Government claim compensation for the detention of those ships?

VISCOUNT CRANBORNE. I should like notice of that question.

MR. SHINWELL. Can we have an assurance that the seamen of the vessels have been in receipt of pay and that their dependents have been properly cared for?

VISCOUNT CRANBORNE. I should like notice of that question also.

SIR PERCY HARRIS. Has it been alleged that these ships were

carrying munitions if not, what justification can there be for detaining them?

MR. BENN Why are no steps taken against the property of the insurgents which is in this country?

VISCOUNT CRANBORNE I am afraid I must ask for notice of that question also I think the opinion of the House will be that this is an exceedingly satisfactory answer that these ships are to be released

MR BENN If the Government wish to obtain compensation for these men and ships, why do they not proceed against the property which the Franco party has in this country?

COLONEL WEDGWOOD May I ask the Noble Lord—

Mr Speaker rose—

COLONEL WEDGWOOD May we not know more about the release of these ships?

MR SPEAKER There are many Questions on the Paper, and we cannot go on any longer asking supplementary questions on this subject

Mr Vyvyan Adams asked the Secretary of State for Foreign Affairs whether he will make it clear beyond doubt that His Majesty's Government can in no circumstances contemplate any cession to Germany of territory over which Great Britain at present exercises political control?

VISCOUNT CRANBORNE I have nothing to add to previous statements on this subject made on behalf of His Majesty's Government

MR ADAMS Will the Noble Lord see that a copy of that reinsurance reaches the office of the "Times" and other prominent pro-Nazi organs?

Sir P Harris asked the Prime Minister whether he will publish as a White Paper the correspondence between him and Signor Mussolini.

The PRIME MINISTER (Mr Chamberlain) No, Sir This correspondence was personal, but I have no objection to telling the House the purport of it. At the end of July last the Italian Ambassador brought me a message from Signor Mussolini of a friendly character. I took advantage of the opportunity to send Signor Mussolini a personal letter expressing my regret that relations between Great Britain and Italy were still far from that old feeling of mutual confidence and affection which lasted for so many years I went on

to state my belief that those old feelings could be restored if we could clear away certain misunderstandings and unfounded suspicions, and I declared the readiness of His Majesty's Government at any time to enter upon conversations with that object I was glad to receive from Signor Mussolini immediately a reply in which he expressed his own sincere wish to restore good relations between our two countries and his agreement with the suggestion that conversations should be entered upon in order to ensure the desired understanding between the two countries

MR SHINWELL Does the right hon Gentleman observe that these friendly references have not been transferred to the Italian Press, nor do they appear in articles alleged to be written by Signor Mussolini himself?

MR. J. J. DAVIDSON Is the Prime Minister satisfied that these letters have had any good effect with regard to the relations between this country and Italy?

The PRIME MINISTER Yes, Sir

MR LEACH Could these two letters really and truthfully be described as love letters?

B WRITTEN QUESTIONS AND ANSWERS

Mr T. Morris asked the First Commissioner of Works whether any steps have been taken and, if so, of what nature with a view to fitting Government Departments with air raid protection devices

SIR P SASSOON I would refer my hon Friend to the reply given yesterday by the Financial Secretary to the Treasury to the hon Member for Dudley (Mr Joel)

Mr Hall-Caine asked the Secretary of State for War for what reason it has been decided to make a drastic reduction in the number of chargers provided for officers in the Army, whether he is aware that this action will adversely affect the prestige of the Army and the flow of recruits; and whether the officers concerned will be compensated in any way for this abolition of a valued privilege which was assured to them on joining the army

MR HORE-BELISHA The process of mechanisation has far out-distanced any reductions which have been made in the authorised number of officers' chargers

Lieut-Commander Tufnell asked the President of the Board of Trade whether, taking Japanese imports and exports, respectively,

for the latest complete year for which figures are available, he will state the percentage of such trade in each case done between Japan and Great Britain and also between Japan and other parts of the British Empire, respectively

MR STANLEY The United Kingdom's share of Japan's total imports and exports of merchandise during 1936 amounted to 2.6 per cent and 5.5 per cent, respectively. For the remainder of the British Empire the corresponding proportions were 29.3 per cent and 23.1 per cent.

42 THE SPIRIT OF THE HOUSE OF COMMONS

The House of Commons has been described as the finest club in the world. Certainly its ceremonies and traditions, its modes of address, the spirit of its debates, all tend to create a distinctive, clublike atmosphere. The subtle effects of this atmosphere are not confined alone to the development of a definite "parliamentary manner." They manifest themselves in the softening of sharp political differences, and in charming the agitator and radical away from his harsh intentions. This spirit of the House is representative of a sentiment widespread among the English people. It is admirably captured in the following not-too-serious article cast in the form of a letter from an old member of the House to a newly elected one ("A Letter from an Old to a New Tory," *The New Statesman and Nation*, New Series, X, 1935, 723-24.)¹

My Dear Boy—Heartiest congratulations on your victory on Thursday and many thanks for your letter. It is flattering for an old fellow who has reached the retiring age—there should be a compulsory retiring age for politicians as there is for Professors—to be asked by a promising young man like you for hints on entering Parliament. Being in the House is not an altogether satisfactory life—a wise man once said it was a place where you could "neither rest nor work." But the defects are on the surface, the real significance of Parliament as a means of government by avoiding trouble one only finds out after long experience. So I shall take you at your

¹ Reprinted by permission of *The New Statesman and Nation*, London.

word and from time to time jot down any reflection that occurs to me.

I am glad you are going into a better balanced House than the last. The parliamentary system does not work with an 80 per cent. or 90 per cent. majority and, frankly, a lot of the young men who came in on the patriotic and economy vote in 1931 were not much of a credit to the Party or the country. The Parliamentary tradition is a thing that has to be learnt, and in 1931 there were too many newcomers to teach. There was a lot of talk about getting down to hard work; Committees were formed to study housing, the distressed areas, and all the rest of it, but they fizzled out very quickly. An automatic majority destroys the incentive to work. Fortunately things did not pan out so badly, because Baldwin ran the show, and he understands the tradition of English politics better than any other man alive. I dread the time when he retires—not that I think that will be very soon. He plays this pathetic card about being an old man and not lasting much longer (with a choke in his voice) almost as skilfully as Gladstone did. But I do not think that he will go on, as the G O M did, until he is eighty-four. No one could accuse Baldwin of having Gladstone's "demonic energy." The truth is that he is lazy, and that is one reason why he is such a damned good Conservative Prime Minister. He is never excited or on the warpath. But you can rely on him for the soothing word at the right minute. He understands human nature just as he is reputed to understand pigs. It is all right so long as he is in charge. I have not the same confidence in all these fierce fellows who talk about the menace of Communism and bring out "red letters" and the rest of it. That sort of stuff is useful for an occasional election stunt, but it makes the Labour people wild and stirs up ideas that are better left alone. The way to stop all this class war is to get a tidy number (of course not too many) Trade Unionists and honest-to-God working men in the House. They soon settle down and cease to be any bother, and we can rely on them to keep the unemployed and the wild men in order for us.

If you want to understand how the thing works, read a fascinating book called *My Life of Revolt* by David Kirkwood—it is published by Harrap at 10s. 6d., and is well worth the money. Kirkwood's father was a fine type of Scottish labourer who thought himself passing rich with a pound a week. Davie describes his father as a man of principle who every morning of his life went to

great pains to be on the steps on the way to work before the hooter went. It was a matter of principle with him to go to work of his own free will and not to be called there by any mechanical contrivance of the authorities. Of course this is really pride, not principle, and that is the key to David's own character. He became a shop steward in Beardmore's munition works in Glasgow during the war and as long as nobody interfered with him he went on saying that he was against the war, while all the time he was so proud of Beardmore's and the trust placed in him both by Sir William Beardmore and by the men that he spent himself in helping to produce as many munitions as possible. Then there was a row and Lloyd George went up to Glasgow and treated him and the men all wrong. L. G. has always been cleverer in fighting landlords than in managing working men. Kirkwood's pride was up and there were rows, and the military, who always make a mess of things, deported him to Edinburgh. He made such a fuss that they tried to buy him off by making him sign a mildly worded document about behaving well in the future. He would not sign anything and finally escaped to London to see Churchill, who, with all his faults—and he is a wild, dangerous fellow—understands the British tradition. When Kirkwood told him that he would accept nothing but reappointment at Beardmore's whether Beardmore's wanted him or not, Churchill laughed, but jumped to Davie's character. Kirkwood was reinstated and worked himself to the bone producing munitions until the end of the war. You could always manage him if you made a lot of him and did not let him see that you were managing him. Then he was elected with the other Clydesiders to the House of Commons, and came to Westminster, declaring, as he tells us, that they would soon "change all that." He knew all about what the *New Statesman and Nation* calls "the aristocratic embrace" and determined from the beginning to show the big nobs that he was not to be put down or bamboozled. He started off by calling Baldwin "Uriah Heep" and then felt thoroughly ashamed of himself when Baldwin very gently asked him afterwards if that was how he really appeared to him. He hurled every abusive epithet that Parliament allows (and probably some that it does not) at Neville Chamberlain. He says that he meant to hurt Chamberlain, but Chamberlain came up to him afterwards and said he was afraid he must have said something to hurt Kirkwood. And then Davie gave notice that he was going to make a bitter attack on L. G., who

promptly wrote him a note apologizing for not being able to be in his place in the House when Mr Kirkwood made his speech! Kirkwood, whose notion was that one knock deserved another, was flattered out by all this courtesy. And now he writes an autobiography with a nice introduction by his old friend, Mr Churchill, and another by George Lansbury (to show that he is still a Socialist and a hundred per cent Labour man), and a concluding chapter in which he says how much better things are for the poor than they used to be when he was a boy, and describes with proper pride a long conversation he had with the Prince of Wales at Lady Astor's.

That is how it is done in this country, and a jolly sight better way it is than all these concentration camps and beatings-up that we hear of on the Continent. There is an old taunt that the House of Commons is the best club in England. So it is, and it is a compliment. We could never get along if we did not stick to the rules of the game, there must be some give and take and courtesy in private, whatever we say in public. If you've called a man an agitator and sedition-monger in the House and he's called you a blood-sucker and battener-on-the-poor, you must have a drink with him afterwards or you might begin to believe what you've said. Actually you both find out you are not bad fellows and it's all forgotten. The personal touch is the salvation of this country and the safeguard against Socialism. Every now and again we get someone who is difficult to manage. Chamberlain might have been really dangerous if Gladstone had not driven him out of the Liberal Party, and L G came near to breaking up the whole show before the war. It is always your middle-class revolutionary who is difficult to handle. He is used to good manners, and is not affected by them. He knows they are only small change, and does not mistake them for real payment.

But the reason why England is the place that I love to-day is just that we have learnt the wisdom of governing by consent, which means, when you've seen the inside of things, governing as we think best while allowing Socialists and Pacifists and the rest to say within limits what they like and to send their Davies and other revolutionaries along to be Members of our club. I can assure you that that is the system which works best.

Your Affectionate Uncle.

43 HIS MAJESTY'S LOYAL OPPOSITION

As an organ of the parliamentary majority, the cabinet is usually strong enough to "control" the House of Commons. The opposition finds itself constantly overpowered. Yet an alert and energetic opposition may succeed not only in winning office from the party in power but in compelling it to modify its legislative program. The methods which the opposition employs are discussed in the following selection (W. Ivor Jennings, "The Technique of Opposition," *Political Quarterly*, VI, 1935, 208-19) ¹

The chance of breaking up the government is slight. The opposition continues to oppose, but it rarely expects to defeat the government. It knows that it will be voted down. It is excited if the government has its majority substantially reduced on an important measure. If it defeated the government it would not be merely wildly excited but very much surprised. Its tactics are not really directed to this end. Opposition members debate the government's measures and go into the division lobbies against them not because they expect to be successful but because they consider that a formal protest is necessary.

Their real appeal is not to the members on the benches opposite (or, in most cases, in the library, the smoke-room, or the dining-room), but to public opinion outside. They rarely expect their arguments to influence votes. But if they do they know that their object will be achieved not because they will change votes in the House, but because they might change votes at the next election. The ordinary government member does not consider whether he can defend his vote to his conscience, but whether he can defend it to his constituents. If he thinks that there will be any difficulty about it, he will vote with the government, but he will make it known through the whips and through his other channels of communication with the Cabinet that on this particular point it is desirable to compromise.

But the appeal to government members is not the essential function of parliamentary opposition. Primarily, a debate is propaganda.

¹ Reprinted by permission of the author and of *The Political Quarterly*, London.

It is an appeal to the reason or to the prejudices of sections of the electorate to vote against the government candidates at the next election. Every opinion lost to the government is a gain to the opposition, every opinion gained by the opposition renders more likely its return to office. Opposition is intensified as a Parliament draws to an end. But opinions are long in the formulation, and the process of educating the electorate for the next election begins as soon as an election is over.

The debates are not of fundamental importance for this purpose. They are usually not well reported in the newspapers, and even the newspaper reports are not studied with that concentration which is necessary to produce conviction. They are read, if they are read at all, over breakfast, in trams, trains and omnibuses, and at odd moments. No matter how partially they are written or sub-edited something of the case for the other side is allowed to appear. The mere fact that there is an opposition may lead a few to think that the arguments are not all on the one side, and so give rise to a habit of criticism. But the fact that an argument is capable of answer, with or without relevancy or cogency, usually tends to confirm the reader in his preconceived opinion, especially if he is intellectually lazy. The case made by the opposition carries conviction, but rarely through newspaper reports. It is carried round the country through political meetings addressed by the leaders. But the main streams of argument proceed through the local party organisations and the keen members of those bodies. Constant publicity is valuable, but primarily because it reaches the individual through individuals. The personal argument is supported and emphasised through published facts and arguments. But it is the personal argument that is essential.

The direct influence of the parliamentary party in this system of propaganda is small. The member of Parliament has some kudos which increases his platform attraction. He is able, by his interventions in debate, to add to the constant stream of party publicity. He can secure both immediate propaganda and valuable ammunition for use elsewhere by asking inconvenient questions and by compelling the government to explain its actions. These functions are important, but they can easily be over-estimated. The fundamentally important fact is that the existence of the opposition is constant and irrefutable evidence that the government's point of view is not necessarily the only or the correct point of view, and

that an alternative government is possible. The main function of the opposition is to prepare itself to take office.

Ordinary political opposition helps to mould and develop this outside opinion. But, as we have seen, the process is slow. Moreover, it depends very considerably on changes of economic conditions. It cannot, therefore, be very effective in securing changes in legislation actually before the House. The examples of the government's peace policy and of the "Sedition Bill" are for this purpose very instructive. There is a strong antipathy to war and to dictatorship among a substantial section of the population. Naturally, much of it is associated with the liberal and labour parties. But it is largely independent of political sympathies, and, indeed, party propaganda on the other side and the example of Russia have made many people believe that one section, at least, of the Labour Party is inclined to a kind of dictatorship. There is an opinion in favour of pacifism and liberty which is not, so to speak, politically harnessed. It derives from a long historical tradition and from the experience of recent years. It is therefore possible to rouse a public opinion against any measure or against any policy which can be shown to tend to war or to infringements of essential liberties.

Parliamentary opposition provides a focus for outside activity. It secures discussion on the questions which perturb public opinion. But essentially the task of the opponent is to rouse public opinion outside and to make it vocal. For this purpose an appeal to party prejudices is a disadvantage. The electors are suspicious of party motives. They have, for the time being, made up their minds on the party issues. But the appeal to reason does not always fail. It is possible to demonstrate that legislation contains dangerous proposals. Democracy, in spite of all that has been said on the other side, does not depend entirely upon an appeal to economic interests.

The result is encouraging to the friends of democracy. It has been shown that the appeal to reason can be successful. It has been shown that public opinion can be roused to defend a prospective and (to anybody but a lawyer) largely hypothetical interference with democratic liberties. If an insidious attack upon democracy can be rendered almost ineffective, it becomes obvious that a direct and immediate attack can be repelled. A Parliament controlled by a majority is, temporarily, dictatorial. But so long as the existence of an opposition makes a substitute government possible, an appeal to a majority outside will compel a parliamentary majority to give

CHAPTER VII

LAWMAKING AND FINANCE

44 THE SPEECH FROM THE THRONE

THE king's speech is delivered to both houses in joint session at the opening of each session of parliament. If the king does not meet parliament in person the speech from the throne is read by the lord chancellor. In reality the speech is prepared by the cabinet and outlines briefly the policies which the government proposes to pursue and mentions the important measures it expects parliament to enact. In this respect it is not unlike the presidential messages to Congress. The speech is usually the signal for a general debate in both houses on the policies of the government. The address printed below was delivered at the opening of parliament in October, 1937 (*Parliamentary Debates*, CCCXXVIII, 1937, 7-8.)

My Lords and Members of the House of Commons

My relations with foreign Powers continue to be friendly

I have invited the King of the Belgians to visit Me in November and a similar invitation has been extended to the King of Roumania for the spring of next year. I shall welcome the visits of Their Majesties to My capital and trust that they will conduce towards the consolidation of the friendly relations existing between our nations.,

My Ministers have followed with growing concern the continuance of the conflict in Spain. It is their aim to do everything which

lies in their power to assist towards the restoration of peace among the Spanish people. They believe that a strict application of the international policy of non-intervention in Spain will materially contribute to this end.

The position in the Far East will continue to engage the earnest attention of My Government, who will persist in their policy of attempting, in co-operation with other Governments, whether members of the League of Nations or not, to mitigate the suffering caused by the conflict and to bring it to a conclusion.

I am looking forward with interest and pleasure to the time when it will be possible for Me to visit My Indian Empire.

Members of the House of Commons

The Estimates for the Public Services will be laid before you.

My Lords and Members of the House of Commons

With the full co-operation of My people the work of expanding and equipping My defence forces is now making rapid progress.

My Ministers are anxious that energetic steps shall be taken to complete the measures for the protection of the civilian population against air raids. A Bill to put the necessary arrangements on a statutory basis will be brought forward for your consideration.

I rejoice to know that the outlook for trade and industry remains favourable, and that there is every indication that the progress made in the last year will be maintained. My Government will continue to take all possible measures to encourage industrial activity at home, and to develop our overseas trade.

A Bill will be submitted to you to provide for the unification of coal royalties under national control and for the furtherance of re-organisation in the coal-mining industry.

A measure for improving the distribution of electricity will be laid before you.

My Government have announced their intention to assist the production and to increase the consumption of milk, and to facilitate the improvement of milk distribution. A Bill to this end and further proposals for the welfare of agriculture will be submitted to you.

You will be invited to pass legislation to provide for the re-organisation of the white fish industry, and for other matters related to sea fisheries.

A comprehensive publicity campaign is being undertaken to

ensure the fullest use of the public health services and to encourage their expansion. The policy of improving housing conditions will be energetically pursued.

My Government will further develop their social policy by introducing legislation to enable meals to be supplied to boys and girls attending junior instruction centers, to provide medical care for young persons who have left school and entered employment, to reduce the age limit for the award of pensions to blind persons; to enable further information to be obtained for the study of the population problem, to amend the financial provision for slum clearance and for abatement of overcrowding, and to make further provision for the improvement of agricultural housing.

A Measure will be laid before you to amend the penal law and to enable improved arrangements to be made for dealing with offenders, including juveniles and those who commit repeated offences.

Proposals will be laid before you for providing such additional judicial strength for the Probate, Divorce and Admiralty Division as will enable the High Court to discharge the additional duties laid upon it by the Matrimonial Causes Act of last Session; for carrying out some of the recommendations of the Royal Commission on the Despatch of Business at Common Law; and for giving effect to certain recommendations of the Law Revision Committee on the subject of the limitation of actions.

Among other Measures which you will be invited to pass will be Bills to amend the present scheme for securing the renting and exhibition of a certain proportion of British films, to prevent frauds in share dealings; to make better provisions for preventing abuses of the law relating to clubs, to improve the efficiency of the organisation of the fire brigade services of the country, and to regulate wages and conditions of employment in the transport of goods by road.

Scottish affairs will continue to receive the close attention of My Ministers. Legislation on the subject of rural housing in Scotland and on other matters of Scottish interest will be submitted to you.

Other Measures of importance will be laid before you and proceeded with as time and opportunity offer.

I pray that, under the blessing of Almighty God, the outcome of your deliberations may advance the happiness and well-being of My people and the peace of the world.

45 PARLIAMENTARY PROCEDURE

The rules and practices of the House of Commons for conducting public business are numerous and complicated. Yet the general principles of parliamentary law followed in the House are well known, for they have been borrowed by law-making bodies throughout the world. The special character of these rules is indicated in this brief summary of the principal Standing Orders (*Constitutional Year Book*, 1930, pp 173-80)

THE PROCEDURE OF THE HOUSE OF COMMONS

The rules of procedure in the House of Commons as regard public business are numerous and complicated. The following brief summary of the principal Standing Orders and regulations may be useful for reference.

The Chair.—The Speaker presides at all meetings of the House, and the Chairman of Ways and Means, as Deputy Speaker, acts in his absence, and also presides when the House is "in Committee." There is also a Deputy Chairman, empowered to act in the absence of the Chairman, and as Deputy Speaker in the absence of both the Speaker and Deputy Speaker. Five members are nominated by the Speaker annually to act as temporary Chairman of Committees when required.

Sitting and Adjournment of the House.—The House now ordinarily meets at 2.45 p.m., except on Fridays when the hour of meeting is 11 o'clock. Business is preceded by prayers. Forty is the quorum. A count out occurs when the Speaker counts the members present and finds them less than 40. Two minutes' interval is allowed them to assemble. A "count" can be made by the Speaker when he takes the Chair or on the demand of a member at any time, except between 8.15 and 9.15 p.m. The House can be counted on Friday but cannot be counted out before one o'clock. The time-table of business is as follows—

2.45 P.M. House meets. Prayers

2.50 P.M. Private business—not to last later than 3.00 P.M.
Not later than

3.00 P.M. Questions.

3 45 P.M. Urgent questions Public business

7 30 P.M. Consideration of adjournment motion or private business (if any).

11 00 P.M. End of public business

Conduct of Members—Every male member must be uncovered on entering or leaving the House, or on moving from one part of the House to another, and must make an obeisance to the chair in passing to or from his seat. Seats may be retained for the sitting by members who have been present at prayers, but not otherwise. To the right of the Speaker are the Government Benches. A gangway divides them into two blocks of five rows each. The Front Bench of the right block nearer the Speaker is the Treasury or Ministerial Bench, on which Ministers sit. The second Bench is mainly occupied by Parliamentary Private Secretaries, members who act in the capacity of private secretaries to Ministers, and thus sit immediately behind and in convenient proximity to their chiefs. To the left of the Speaker are the Benches upon which the Opposition sit. They are also divided into two blocks. The Front Opposition Bench faces the Ministerial Front Bench. In theory it offers accommodation for members of the previous government and others whom the leaders of the Party in opposition invites to occupy them. No member may cross between the chair and any member who is speaking, nor may he read any newspaper, book or letter in his place.

The Closure—This is simply the motion "that the question be now put," i.e., that the motion being discussed be voted upon without further debate. Any member may move the closure of the debate in this way, either on the conclusion of a speech, or he may interrupt a speaker for the purpose of moving the motion. The Speaker, or whoever may be in the Chair, has an absolute discretion in accepting the motion, and will refuse it if he considers it to be "an abuse of the rules of the House or an infringement of the rights of the minority." In other words, he will not accept it if he thinks that the subject of the debate has not been sufficiently discussed. If it is accepted, the motion is put at once. If it is carried, and there are also not less than 100 votes in the majority for the motion, the debate comes to an end, and the question which has been under discussion is put to the vote. The simple closure is also used in Standing Committees. There must be in this case twenty votes in the majority in place of 100.

"Closure by compartments" is the most drastic form for curtailment of debate which has been adopted. It is used in respect of discussions on Bills. It sets up a time-table of days and hours for the discussion of sections of the Bill in Committee and on Report—in later time-tables the Third Reading has been included—and prescribes that at stated times discussion is closed and the section of the Bill allocated to the particular time must be voted upon without further debate. The voting is confined to the clauses of the Bill and to amendments moved by the Government only. Debate, and voting on other amendments, is automatically brought to an end at the prescribed hour, hence to this form of closure the term "guillotine" is applied. The motion which comprises the terms of the "closure by compartments" has, of course, to be carried by the House of Commons; but as it is a Government proposal, and as it relates usually to a highly-contentious measure which supporters of the Government are keen to have passed into law, its passage is a foregone conclusion. It was originally applied in 1887 to the Bill which is commonly known as the Crimes Act. It was not introduced until the Bill had been in Committee for sixteen days and it was obvious that unless exceptional steps were taken no real progress could be made with the measure. For a long time this form of closure was not applied until the Bill affected had been discussed in Committee for some time—in the case of the Home Rule Bill, 1893, twenty-eight days, and of the Education Bill, 1902, thirty-eight days. The Government was, therefore, in these cases free to use the argument that this type of closure was only resorted to when it was evident that an important Government Bill stood no chance of making real progress unless some restriction was placed upon debate.

By 1911 it was recognised that closure by compartments would be used by the Government in respect of all important Government Bills as part of the machinery required to pass them through the House of Commons, before there was any evidence that discussion would be so prolonged as to deserve the allegation of obstruction. It proved, however, to be a clumsy device, and even a cause of embarrassment to a Government making use of it. Frequently amendments had to be inserted during the debates in the House of Lords, owing to the fact that clauses of the Bill were forced through the House of Commons without examination or discussion. It is not, of course, the business of the Opposition to

facilitate the passage of a Government measure Upon a Bill on which it feels keenly, its purpose is to bring on the Government as much discredit as possible by forcing the "Guillotine" to operate in such a way as to require as much as possible of the Bill to be passed without discussion An attempt to meet these tactics was made in 1909 by giving the Speaker and the Chairman power to select amendments for discussion, passing over those which they deemed to be of less importance This power was compared to the jumps made by the kangaroo, hence the popular name At first a motion had to be carried in the case when it was desired that this power should be conferred But in 1919, it was incorporated into the ordinary procedure on debates. It necessarily places a responsible and difficult duty upon the occupant of the Chair, and members whose amendments are passed over are naturally inclined to protest, but it is accepted by leaders as a great improvement upon the system of "closure by compartments" Whether it is sufficiently powerful to make it unnecessary again to resort to "closure by compartments" is debatable, but this somewhat discredited method of limiting debate was only resorted to on one occasion during the War—on the Military Service Bill, 1918—and was only used on two occasions in the 1918-22 Parliament, and in neither case in a drastic manner.

Resort to the guillotine was had during the progress of the Trade Disputes and Trade Unions Bill, 1927, the Unemployment Insurance Bill, 1927, the Rating and Valuation (Apportionment) Bill, 1928, and the Local Government Bill, 1928

Rules of Debate—Every male member desiring to speak must rise in his place uncovered, and address himself to the Speaker A member may not read a speech, but may refresh the memory by notes. Members can only speak to a point of order, while the House is dividing, by permission of the Speaker, and, while speaking, are to sit covered. A new member who has not yet spoken, is generally called upon, by courtesy, in preference to other members On resuming an adjourned debate, the member who moved its adjournment is allowed precedence by courtesy. The Speaker or Chairman may call the attention of the House, or Committee, to continued irrelevance or tedious repetition of the member's arguments, or the arguments of others; and may direct the member to discontinue speaking In questions to ministers, no argument or opinion may be offered, nor any facts stated, except so far as neces-

sary to explain the question By indulgence, a member may explain matters of a personal nature, although there be no question before the House, but they may not be debated A reply is allowed to a member who has made a substantive motion to the House Any member may rise to speak "to order," or upon a matter of privilege suddenly arising No member is to allude to any debate of the same Session, on any question not then under discussion A member may not allude to any debate in the other House of Parliament A member may not use His Majesty's name irreverently in debate, or for the purpose of influencing the House in its deliberations, or refer to any other member by name In case of grave disorder, the Speaker may adjourn the House, or suspend the sitting for a fixed time

Suspension—A member whose conduct is disorderly can be called upon to withdraw from the House by the Speaker or Chairman If the member refuses to withdraw or the Speaker considers such action inadequate to meet the offence, he can "name" for disregarding the authority of the Chair, or for abusing the rules of the House by persistently and wilfully obstructing the business A question is forthwith put, without amendment, adjournment, or debate, "That such member be suspended from the service of the House" If any member is so suspended, the Order continues in force on the first occasion for five days, on the second occasion for twenty days, and on the third till the House shall rescind it The suspension does not exempt the member from serving on any private bill committee Not more than one member can be "named" at the same time, unless several have jointly disregarded the authority of the Chair

Division.—The opinion of members is "collected from their voices in the House," and in theory they must vote as they have vocally declared themselves When the Speaker puts the question he adds, "as many as are of that opinion will say Aye" "I think," proceeds the Speaker, "the Ayes have it" If there is no answering chorus of "No," the motion is carried without a division But a sustained challenge of "No" is the signal for a division, and the Speaker orders the Lobby to be cleared and those privileged persons who are admitted thereto have to withdraw Then the bells ring and the policemen shout "Division!" When the two minutes' warning is over, Mr. Speaker again puts the question The division is again challenged Mr Speaker directs those who wish to vote

"Aye" to go into the Right Lobby, and those who desire to vote "No" to go into the Left Lobby. He also appoints two "Tellers" for each party. The voting begins. In each Lobby, which are really corridors, clerks sit, who tick members' names on alphabetical lists as they pass along. In this way the member's actual vote is recorded for publication in the Division Lists. At the exit to each Lobby stand the "Tellers"—two at each door, one representing the "Ayes," the other the "Noes." In each Lobby the "Aye" Teller counts aloud the members passing through, and the "No" Teller listens to see that he makes no mistake. They are members themselves, and in all important divisions the duty is undertaken by the Party Whips on each side. Six minutes after the question is first put the doors leading from the House to the Division Lobbies are locked. After the division the Tellers enter the House, and after obeisance to the Chair, the "Aye" Lobby Teller for the majority reads out the number of votes given in each Lobby. The paper containing the figures is handed to the Clerk. He gives it to Mr. Speaker, who again announces the figures, and adds, "The Ayes" (or the "Noes" as the case may be) "have it." A member who is present in the House when a division is called does not now have to vote. He can remain in his place. This change was made in 1906. Voting must be in person. In the House of Lords, voting by proxy was allowed until 1868. Since that time it has not been exercised. Any two members can claim a division, but the Speaker or Chairman if he thinks it is vexatious or frivolous can call upon Members to show their opinion by rising in their places, and he can then have the number and names of the minority taken down in the House. Thus time is not wasted by proceeding with an ordinary division.

46 PARLIAMENT AND PRIVATE LEGISLATION

The British parliament divides the measures put before it into public and private bills, according to their subject matter. The "Manual" of the House of Commons defines a private bill as one which aims "to alter the law relating to some particular locality, or to confer rights on or relieve from liability some particular person or body of persons." In the United States such legislation, when it falls within the jurisdiction of Congress, is dealt with in the same manner as legislation of more

general public concern. Parliament, however, has devised a special procedure for the consideration of private bills which saves the time of the entire legislative body and also insures a careful treatment of the matter under consideration. This method is the use of specially constituted committees.

As the first selection below indicates, the attention given by the House of Commons to the actual passage of private bills is slight. It is in the committee hearings that the merits of the legislation may be thoroughly and hotly debated. Private legislation may also be dealt with by provisional orders issued by the executive departments. These orders, to be valid, must eventually be given the approval of parliament, but this approval is seldom refused. The second selection is a description of a hearing before the Board of Trade to determine whether a provisional order should be issued.

A PRIVATE BILLS IN THE HOUSE OF COMMONS

(M. MacDonagh, *The Pageant of Parliament*, II, 168-71, 178-89.)¹

A Public Bill is introduced in either House without any preliminary proceedings outside. But before any Private Bill can be presented in either House, a petition for such a Bill, together with plans of the proposed scheme or undertaking and an estimate of its cost, must be deposited by the parliamentary agent of the promoters in the Private Bill Office. Copies of documents must also be sent to the Government Department interested in the scheme—the Board of Trade, in the case of railways, and the Ministry of Health, in the case of undertaking by local authorities. Due notice must be given to all persons affected, such as the owners and occupiers of the land and houses proposed to be compulsorily acquired under the Bill. Each House has an official known as the "Examiner of Private Bills," whose duty it is to see that the Standing Orders regulating Private Bills have been complied with.

The first thing the House of Commons does after prayers, with which it opens each sitting, is to proceed with any Private Bills that may be down on the notice-paper for consideration. The nor-

¹ Reprinted by permission of E. Benn and Co., London.

mal aspect of the Chamber at this hour is empty and listless. Half a dozen Members or so are scattered over the benches at each side. The responsibility of Ministers in regard to public legislation does not extend to Private Bills. Indeed, Ministers, as a rule, abstain from any interference in these measures. The only occupant of the Treasury Bench is the obliging unofficial Member, who, to the great convenience of the House, as well as of the parties interested in the Private Bills, has undertaken to see these measures through the different stages.

The proceedings are purely formal. The Speaker rises and says, "The Clerk will now proceed to read the titles of Private Bills set down for consideration this day." There may be six or eight such Bills some days, and on other days no more than one or two, in various stages of advancement. Be the list long or short, it is generally gone through in a few minutes. The Clerk, reading from the "Orders of the Day," says, "The Essex Railway Extension Bill—second reading," the Member on the Treasury Bench lifts his hat to indicate that he moves the Order, and the voice of Mr. Speaker is again heard reciting the formula of putting a question: "As many as are of that opinion will say 'Aye', the contrary, 'No'." No one responds to the Speaker's invitation. Not a solitary "Aye" or "No" is heard from the few uninterested and inattentive Members present. But, nevertheless, the Speaker imperturbably declares he thinks the "Ayes" have it, and then pronounces the irrevocable decision, "The 'Ayes' have it." And so on through the entire list. The Clerk reads the title and stage of each Bill, the occupant of the Treasury Bench raises his hat, the Speaker declares the order passed.

But all Private Bills are not disposed of in this formal manner. Many of them closely affect for good or ill the well-being and convenience of large masses of the people, and naturally, are strongly opposed. Private Bills of this character are often debated for hours with great animation, not, however, at the opening of the sitting, but at a quarter-past eight o'clock, till which hour opposed Private Bills are adjourned. The progress of the average Private Bill through the House is even and uneventful, and it is only when, after second reading—by which the House has affirmed the general principle of expediency of the measure—it is referred to a committee, sitting upstairs, that it finds itself in troubled waters.

In the committee-rooms of Parliament there is not the same strictness as to the manner of examining witnesses that is main-

tained in the Law Courts. The witnesses are not sworn, except at inquiries of a special character. To ask "leading questions" is a matter of ordinary practice. A well-known member of the Parliamentary Bar appearing in one of the High Courts of Justice had not proceeded far with his examination of a witness when he was interrupted by the Judge. "No, no," exclaimed his lordship. "That may be good enough for Westminster, but here we take evidence according to the laws of evidence." The Members of the Private Bill Committees are similarly unfettered by rules or precedents. The decisions are guided by no fixed principles. Accordingly, they are without uniformity, and, indeed, are sometimes contradictory. It is also the fact that some Members nominated on Private Bill Committees are unqualified by experience or training to act as judges on the business matters at issue. There is a story told of a young Member, sitting on a committee to decide on the engineering merits of two rival lines of railways, who, after days of silence, aroused himself to ask, "Pray, what is a gradient?" But, on the other hand, it may be said that an average share of shrewdness and common sense is alone sufficient to guide the committee to a proper decision on the question of public expediency or policy at stake in a Private Bill.

"Do the advantages, or services, offered to the public by the scheme, justify the interference with private rights which the execution of the scheme involves?" That is the main question, and when the evidence is concluded, and counsel on each side have been heard, the committee deliberate upon it with closed doors. If the committee decide the question in the negative, the parties are called in, and the chairman simply says "The preamble of Bill has not been proved to our satisfaction." That is all. The committee on Private Bill never give reasons for their decision. If the committee decide that the preamble of the Bill has been proved, the clauses are then taken up and gone through, one by one, as in the case of a Public Bill before the Committee of the Whole House, or one of the Grand Committees.

B A HEARING BEFORE THE BOARD OF TRADE

(J A Fairlie, *Administrative Procedure in Connection with Statutory Rules and Orders in Great Britain*, 1925, pp 61-63) ¹

¹ Reprinted by permission of the University of Illinois Studies

A brief account of proceedings at a hearing in connection with a proposed special order under the Gas Regulation Act of 1920, will indicate the general character of such hearings. The hearing was on an application, from a local gas company in Staffordshire, for a special order, amending the special act under which the company had been operating, so as to extend the limits of its area to include that of a neighboring gas company. The hearing was conducted by the Director of Gas Administration, a technical official of the Board of Trade, not trained in law, but with considerable experience in conducting such hearings, as well as technical and practical knowledge of gas supply problems. It was held in a fair sized room in the Board of Trade offices on Great George Street, not far from the Parliament buildings. About twenty-five persons were present, seated around tables, arranged in horse-shoe fashion. These included several barristers (in street costume, without gowns and wigs, as in courts and before parliamentary private bill committees), representing the applicants and their opponents—two local authorities and an electric railway company, and also witnesses, clerks, and a stenographer. The proceedings were conducted with decorum, but with less formality than before a judicial court or parliamentary private bill committee.

The barrister representing the applicants first presented their case in about half an hour, referring to printed documents and maps previously prepared. The company was operating under a special act of 1865, which had not been amended, it had made an agreement to purchase the neighboring company, which had met with financial difficulties, and had in fact taken over the works, had commenced new construction, and had lowered the price in the added area. He next took up objections which had been made to provisions in the proposed order. Complaints as to service were from not more than five percent of the users and would be remedied when the improvements were completed. As to charges, these were now 40 percent over pre-war rates, but in nearby areas with larger supplies there had been a larger proportionate increase. The present rates were now four shillings and six pence in the original area, and five shillings in the added district. Maximum rates were provided in the order with a differential of one shilling more for the added district. This differential was said to be justified by the additional expense and the present rate in the added district was less than that charged by the former company.

Several witnesses were then heard and examined, without being sworn. The technical expert of the company was in the witness chair for an hour and a half, replying first to questions by the company's barrister and later by the Gas Director (occasionally) and by counsel for the opponents. Some items in the financial statement were criticised. Several consumers (large and small) testified as to satisfactory service. Further testimony was given by the engineer and the secretary of the gas company.

After an adjournment for lunch, the hearing was continued with opposing witnesses until late in the afternoon. The *locus standi* of the opposing electric railway company was questioned, but the Gas Director agreed to hear its objections, reserving a decision on the legal question. The main objections seemed to be to the provision authorizing a differential of one shilling in the rate for the added area. It was indicated that a differential of six pence more than that existing might be allowed and with that change the proposed special order would be approved.

The proceedings tended to confirm the general statement by an assistant secretary of the Board of Trade, that the hearings before the department, even though held in London, are less expensive than in contested cases before the Private Bill committees in Parliament.

47. PRIVATE MEMBERS' BILLS

The cabinet initiates almost all public bills considered and passed by parliament. In fact, a member of parliament other than a member of the ministry has little chance of securing the passage of any personally sponsored bill even though he may belong to the party in power. A very small amount of time is allotted to private members' bills and that allotment is frequently taken away if the cabinet believes that it needs the time for its own measures. The speech given here was provoked by a motion of the prime minister to eliminate the time usually given to private members. It brings out pointedly and wittily the issues involved in this problem of parliamentary procedure (*Parliamentary Debates*, CCCVII, 1935, 131-36).

MR A P HERBERT. I rise with more than the usual trepidation because I know I am doing an unusual thing, and therefore I shall

not ask the usual indulgence of this House I rise with no moral hesitation whatever, on a point of principle, on a point of conscience I am the junior burgess of the University of Oxford, the elected mouthpiece of innumerable clergymen, the trumpet—or second trumpet—of 20,000 bachelors of arts, and I have been sent here, I do believe at a very unusual election, by my constituents largely to stop, or try to stop, the kind of thinking that is behind this Motion. The Prime Minister, I understand, is taking away from us private Members what he says is only one Friday, and he has mentioned three reasons why that is good. First he says that he understands there is no objection among the Opposition Whips. In my comparative inexperience I wonder what that has to do with it in any way. Is it not a contradiction in terms that the Whips, who are the symbols and the officers of the machine, the slavery, the organisation—whatever you like to call it—should be able to barter and give away the free time of private Members which, *ex hypothesi*, is not theirs to give? Secondly, the Prime Minister made what is, I suppose, the oldest excuse for the oldest offence. He says it is “only a little one.” It is only one Friday. Well, it is true that there are 52 Fridays in the year but how many Fridays are there in the year of the private Member? Last year there were none at all. This year I do not know if there will be four or five, six, seven, or eight, but at any rate whatever the figure is, one will be quite a high proportion of it. I understand it is not only a question of this particular Friday, but during this unspecified period we shall not be able even to have our private Bills printed, and even I know that that is a very formidable and important weapon in the armoury of one who tries to educate opinion.

Thirdly, the Prime Minister used what I thought was the most extraordinary reason of all when he said that this was being done for the benefit of the victims, because back benchers and private Members, being uncivilised, backward, and unintelligent, had not had the time to prepare their contributions to the safety of the country and the legislation of the future. I seem to remember that that was the excuse put forward by Signor Mussolini to defend his descent upon the Ethiopians. I hope the Prime Minister will not think that all private Members are quite so deficient in imaginative and constructive power as that. At any rate, in answer to that point, let me tell him that I have in my hand a Bill which I am ready to introduce next Friday, or on the Friday after, or on all the Fridays,

until it is passed into law, and I swear that it shall be passed before this Parliament is over .

In regard to the other point made by the Prime Minister, about Government time, I have been watching the proceedings of this House for many years with close attention, and I am very tired of hearing that the Government have no time to do this or that. With great respect to the Prime Minister, who quoted it, that seems to be a foolish observation of Mr John Bright that you cannot drive 20 wagons through Temple Bar One answer to that is that no man with any sense would attempt such a thing, and another answer is that if any man did desire to drive 20 wagons past this point or another, either he would widen Temple Bar or take some of the wagons round another way So many years go by, so many Sessions, so many Parliaments, and nothing is done about these things. If we mention them at General Election time, we are told that we must not trespass upon what are called the major issues. If we mention them after the election, we are told that since they were not mentioned at the election, the Government have no mandate for them. At the beginning of a Parliament the Government have no time to do anything, at the end of a Parliament they have no courage to do anything, and in the middle of a Parliament there is a change of Ministries We are told that a party Government cannot do this thing, and it seems that a National Government cannot do it, though it would seem to me that if any Government could be fitted for such a task, it would be a National Government which claims to represent all sections of society

48 THE PREPARATION OF THE ESTIMATES

The far-reaching influence of the Treasury in the management of all the departments of the government is seen most clearly in the preparation of the budget. Several months before the beginning of the fiscal year (April 1) the accounting officers of the various departments, under instructions from the Treasury, prepare estimates of their financial needs. The Estimates Circular, in part printed below, shows something of the procedures followed and some of the factors given consideration in the preparation of the departmental estimates.

(*Estimate Circular*, issued by the Treasury Department, October, 1938)

ESTIMATE CIRCULAR

1939

URGENT

TREASURY CHAMBERS,

Sir,

1st October, 1938

The Lords Commissioners of His Majesty's Treasury command me to transmit to you the enclosed forms of estimates for the services to be administered by your Department during the year ending 31st March, 1940.

TWO COPIES of each form, after insertion of the proper particulars, and with such changes as may be necessary, should be returned to the Treasury in due course. The Explanatory Statements &c referred to in Regulations 3 and 4 below, the covering letter and any other memoranda respecting the Estimates should also be given in duplicate. In one of the copies, however, the Part III details and explanatory notes of any Salaries Subheads need not be given.

The figures of the past year should be carefully checked, and corrected where necessary, particularly in respect of Supplementary Estimates included in the Appropriation Act. As much inconvenience will be caused if the forms are not used, additional copies of them, as well as of this covering letter, will be furnished to you if needful.

NEED FOR ECONOMY

MY LORDS MUST EMPHASISE THE NEED FOR THE STRICTEST CONTROL OF ALL EXPENDITURE. THE CONTINUING HEAVY COST OF REARMAMENT REQUIRES IT IMPERATIVE THAT THE ESTIMATES FOR THE COMING YEAR SHOULD BE FRAMED WITH THE CLOSEST REGARD FOR ECONOMY, AND THERE WILL BE A PRIME NEED FOR ARRESTING THE GROWTH IN CIVIL EXPENDITURE. IT IS THE DUTY OF EVERY DEPARTMENT BOTH TO EXERCISE THE CLOSEST SCRUTINY OF EVERY ITEM OF SANCTIONED EXPENDITURE WITH A VIEW TO THE AVOIDANCE OF WASTE, AND ALSO TO REFRAIN FROM PUTTING FORWARD PROPOSALS FOR EXPENDITURE

ON NEW SERVICES UNLESS THEY ARE OF A CHARACTER WHICH COULD NOT BE ABANDONED OR POSTPONED WITHOUT THE GRAVEST DETRIMENT TO THE PUBLIC GOOD

Date for submission of Estimates

Estimates should reach the Treasury not later than the 1ST DECEMBER, 1938. Where owing to special circumstances it is impossible to furnish an Estimate in final form by that date, it should be sent in as soon after 1st December as practicable, and in no case later than 2ND JANUARY, 1939. Where the submission of the complete Estimate is delayed beyond the 1st December an approximate total, together with an explanation of the reasons for delay, should be furnished on or before that date in order to enable the Chancellor of the Exchequer to ascertain the probable total of the Estimates.

The dates indicated above for the submission of the Estimates allow adequate time for their review by this Department only if all new proposals for expenditure which require Treasury sanction are, save in very exceptional cases, settled before the Estimates are submitted. Departments are urged to ensure that this condition is observed. It is only in very special circumstances that the Treasury will be able to consider proposals affecting the expenditure for the coming year after the Estimates have been sent in.

To the Accounting Officer.

49 THE BUDGET SUMMARY

The presentation of the estimates of financial needs is made in the annual budget speech of the chancellor of the exchequer. This was formerly the occasion for a detailed review, sometimes hours in length, of the financial record and policies of the government. Now the speech is more modest. The chancellor lays before the House of Commons a summary statement of the government's income and expenditure for the past fiscal year and the estimates for the coming year. He reports to the House how the estimates for the past year compared with actual income and expenditure, and points out how the estimates for the coming year differ from those of the past. The

TABLE I—Comparison of Exchequer Issues with Estimated Expenditure

Ordinary Expenditure CONSOLIDATED FUND SERVICES	1938 39			
	Total Expenditure Provided for in the Budget	Additional Expenditure for which Revised or Supplementary Estimates or Excess Votes were presented	Total Estimated Expenditure	Exchequer Issues
Interest and Management of National Debt	£ 230,000,000	£ —	£ 230,000,000	£ 216,781,000*
Payments to Northern Ire land Exchequer	8,900,000	—	8,900,000	9,459,000†
Other Consolidated Fund Services	3,200,000	2,039,000‡	5,239,000	4,825,000
Post Office Fund	—	—	—	—
Total	242,100,000	2,039,000	244,139,000	231,065,000
SUPPLY SERVICES (excluding Post Office and Broadcasting)				
Army Votes (including Ordnance Factories)	86,041,000	—	86,041,000	85,661,000
Navy Votes	93,707,000	2,411,000	96,118,000	95,945,000
Air Votes	73,500,000	1,000	73,501,000	72,800,000
Total Defence Votes	253,248,000	2,412,000	255,660,000§	254,406,000§
Civil Defence	8,493,000	9,290,000	17,783,000	17,783,000
Total Defence	261,741,000	11,702,000	273,443,000	272,189,000
Civil Votes (excluding Civil Defence and Vote for Broadcasting)	416,273,000	{ 5,886,000 2,300,000||	} 419,859,000	409,383,000
Margin for Supplementary Estimates	10,000,000	10,000,000||		
Customs and Excise and Inland Revenue Votes	14,284,000	—	14,284,000	14,143,000
Total Supply Services (ex cluding Post Office and Broadcasting)	702,298,000	5,288,000	707,586,000	695,715,000
Total Ordinary Expendi- ture	944,398,000	7,327,000	951,725,000	926,780,000
SINKING FUNDS	—	—	—	13,219,000*
Total Ordinary Expendi- ture and Sinking Funds	944,398,000	7,327,000	951,725,000	939,999,000
SELF-BALANCING EXPENDITURE				
Post Office Vote	76,802,000	—	76,802,000	75,300,000
Vote for Broadcasting	3,640,000	50,000	3,690,000	3,650,000
Total Self Balancing Ex penditure	80,442,000	50,000	80,492,000	78,950,000
Total Expenditure	1,024,840,000	7,377,000	1,032,217,000	1,018,949,000

* These two items together make up the total of the Permanent Debt Charge (£230,000,000) as fixed by Section 53 (1) of the Finance Act, 1938

† Including £7,673,000, net share of reserved taxes

‡ Expenditure under Eire (Confirmation of Agreements) Act, 1938, transferred from Civil Votes to Other Consolidated Fund Services

§ Reduction by Revised Estimate (Eire Services and Irish Land Purchase Services)

|| Replaced by the presentation of Supplementary Estimates

§ Exclusive of amounts met from issues under the Defence Loans Act, 1937, viz —

	Estimate £000	Issues £000
Army	27,313	35,700
Army Ordnance Factories	11,841	
Navy	31,750	31,350
Air	61,000	61,000
	131,904	128,050

TABLE II—Comparison of Exchequer Receipts with Budget Estimate

1937 38 Exchequer Receipts		1938 39		
		Budget Estimate	Exchequer Receipts	+ Increase or — Decrease
	Ordinary Revenue			
	INLAND REVENUE	£	£	£
297,986,000	Income Tax	341,250,000†	335,901,000	— 5,349,000
57,060,000	Sur tax	62,000,000	62,530,000	+ 530,000
88,980,000	Estate Duties	88,000,000	77,430,000	— 10,570,000
24,170,000	Stamps	24,000,000	20,980,000	— 3,020,000
1,420,000	National Defence Contri- bution	20,000,000	21,890,000	+ 1,890,000
1,730,000	Other Inland Revenue Duties	1,250,000	1,550,000	+ 300,000
471,346,000		536,500,000	520,281,000	— 16,219,000
	CUSTOMS AND EXCISE			
221,561,000	Customs	227,950,000	226,326,000	— 1,624,000
113,700,000	Excise	116,150,000	114,200,000	— 1,950,000
335,261,000		344,100,000	340,526,000	— 3,574,000
34,608,000	MOTOR VEHICLE DUTIES	36,000,000	35,608,000	— 392,000
841,215,000	TOTAL RECEIPTS FROM TAXES	916,600,000	896,415,000	— 20,185,000
10,470,000	Post Office net Receipt	8,670,000	9,500,000*	+ 830,000
825,000	Post Office Fund	2,400,000	1,400,000	— 1,000,000
1,330,000	Crown Lands	1,330,000	1,330,000	—
5,230,000	Receipts from Sundry Loans	5,250,000	5,699,000	+ 449,000
13,510,000	Miscellaneous	10,500,000	12,941,000	+ 2,441,000
872,580,000	Total Ordinary Revenue	944,750,000	927,285,000	— 17,465,000
	Self-Balancing Revenue			
76,080,000	Post Office Revenue re- quired to meet expendi- ture on Post Office and Broadcasting	80,442,000	78,950,000	— 1,492,000
948,660,000	Total Revenue	1,025,192,000	1,006,235,000	— 18,957,000

* Including net receipt from Wireless Broadcasting Licenses, £2398,000

† The concession for Income Tax relief in respect of children over sixteen undergoing training made during the passage of the Finance Bill was estimated to reduce this by £100,000

summary statement in the tables presents the estimates for 1939-40. It shows the cost of the central government and reveals the chief sources of revenue and the principal object of expenditure.

This particular budget is marked by an enormous increase in expenditures for national defense. This increase has been provided for by loans and by stiffening present rates taxation,

particularly on incomes Taxes on incomes of single persons begin at £125 and on incomes of married persons at £200. The tax, for example, on a childless married man's income of £400 would be approximately £140; on £2,000, £474 (Financial statement laid before the House of Commons, April 25, 1939.)

50 FINANCIAL POLICIES

The English government has been unable to escape the financial difficulties which have beset almost all nations since the World War and particularly since the depression which began in 1929. It has nevertheless been able to steer its finances more nearly along the traditional course of public finance than has any other major power. The general factors which have governed English financial policy since 1928 are described in the selection below. (Harley L. Lutz, "English Financial Policy and Experience, 1928-1937," *Proceedings of the Academy of Political Science*, XVII, 1937, 410-12)¹

First, the traditional regard for a balanced budget continued to exert strong influence upon fiscal policy. From the cessation of the War, the party in opposition, whatever its label, has found the government's expenditure and taxation proposals an inviting point of attack. The criticism has been, at times, captious rather than constructive, but it has always been active.

It is true that the original budget for the fiscal year of 1932 was a "makeshift" affair, the enactment of which constituted a temporary triumph of political expediency which seemed at the moment to brighten the prospects of the Labor Government. As the prospective deficit under it increased, the government continued unwilling to make adjustments along the lines recommended by the May Committee on national expenditure, and in August 1931, a cabinet crisis was precipitated by the split over unemployment policy, itself a fruit of the earlier optimism regarding the future outlook for industry.

In presenting the supplementary budget, Mr. Snowden, who,

¹ Reprinted by permission of the Academy of Political Science, Columbia University, New York.

as chancellor, had been responsible for the earlier makeshift proposals, announced that the revised program contained "drastic and disagreeable" proposals. The significant thing about this crisis and the way in which it was met is that while the British may muddle and temporize and err, they do not altogether lose sight of the chalk line of budgetary balance. The promptness with which drastic and disagreeable action was taken in 1931 reveals the apprehension which any threat to budgetary stability will develop in England.

A second general feature of the English fiscal situation over the past decade has been the comparative steadiness of both the revenues and the expenditures. This is to be expected under a "pay-as-you-go" philosophy. The receipts naturally performed better than the expenditures, for they were under somewhat better control. That is, a government which, at the critical junctures, can muster the political courage to use the taxing power as a means of preserving budgetary equilibrium can take steps, however drastic and disagreeable they may be, to increase its receipts, or to control them in this sense. It has no such control over the effects of a world-wide depression on the domestic economy and on the volume of the expenditure obligations that may be created by the impact of outside forces.

A third characteristic of the English record is the material reduction of the annual debt service charge. Many nations have taken advantage of the abnormal conditions of the depression capital market to convert or refund high rate war securities into new paper bearing much lower rates. The success of the English conversion of 1932-33 was a factor of the greatest importance in the budgetary improvement from 1934 to 1936. The reduction of more than £100,000,000 in the annual interest cost of the debt provided a shock absorber against the increased expenditures for public relief and in aid of local governments.

A fourth element in the general situation has been the enormous debt total which the English people have been carrying since the War. This has had a tremendously sobering effect on their fiscal policy. From 1919 to the present the deadweight debt has stood above the absolute level to which wild schemes and lavish expenditures have now raised our own national debt. Under these circumstances there has been strong discouragement to any program of liberal spending to be supported by further borrowing.

CHAPTER VIII

PARTIES AND ELECTIONS

51 THE PROCLAMATION DISSOLVING PARLIAMENT AND CALLING A NEW ONE

THE maximum duration of a parliamentary term is fixed by the Parliament Act (1911) at five years. Parliament may, however, be dissolved at any time by the king on the advice of the prime minister. A prime minister whose government is defeated in the House of Commons on a major issue is expected to resign or request a dissolution. In practice political crises involving the cabinet and the House of Commons usually end in a dissolution and a general election. The royal proclamation which dissolves the House of Commons also orders the next general election. At the same time writs of election are issued to the local authorities in charge of elections, and the peers of Scotland are ordered to meet and select their sixteen representatives to the House of Lords for the next parliament. A copy of the royal proclamation issued on May 24, 1929, is given below¹

¹ Printed in E. C. S. Wade and G. G. Phillips, *Constitutional Law*, 2nd ed., Appendix C, pp. 492-93.

BY THE KING
A Proclamation

For Dissolving the Present Parliament, and Declaring the Calling of another.

GEORGE R I

WHEREAS We have thought fit, by and with the advice of Our Privy Council, to dissolve this present Parliament which stands prorogued to Friday, the Twenty-fourth day of May instant, We do, for that End, publish this Our Royal Proclamation, and do hereby dissolve the said Parliament accordingly And the Lords Spiritual and Temporal, and the Knights, Citizens, and Burgesses, and the Commissioners for Shires and Burghs, of the House of Commons, are discharged from their Meeting and Attendance on the said Friday, the Twenty-fourth day of May instant And We being desirous and resolved, as soon as may be, to meet Our People, and to have their Advice in Parliament, do hereby make known to all Our loving Subjects Our Royal Will and Pleasure to call a new Parliament And do hereby further declare, that, by and with the advice of Our Privy Council, We have given Order that Our Chancellor of Great Britain and Our Governor of Northern Ireland do respectively, upon Notice thereof, forthwith issue out Writs, in due Form and according to Law, for calling a new Parliament And we do hereby also, by this Our Royal Proclamation under Our Great Seal of Our Realm, require Writs forthwith to be issued accordingly by Our said Chancellor and Governor respectively, for causing the Lords Spiritual and Temporal and Commons who are to serve in the said Parliament to be duly returned to, and give their Attendance in, Our said Parliament on Tuesday, the Twenty-fifth day of June next, which Writs are to be returnable in due course of Law

Given at Our Court of Saint James, this Tenth day of May, in the year of our Lord One thousand nine hundred and Twenty-nine, and in the Twentieth year of Our Reign

GOD SAVE THE KING

52 THE VOTING LIST IN GREAT BRITAIN

In the United States the individual voter is made responsible for seeing that his name is registered on the voting list In

Great Britain local government officials compile the voting list by mailing out registration blanks and by personal canvasses. Page 155 shows a copy of the registration blank which voters must fill out in order to place their names upon the list of eligible voters

53 AN ARGUMENT AGAINST PLURAL VOTING

Until 1918 a person was entitled to vote in any constituency in which he could qualify. With elections occurring on different days in different constituencies, a voter might cast several ballots. The Liberal party challenged the system, making a political issue of it with the Conservatives, but nothing was done until the enactment of the Representation of the People Act in 1918. Under this law no person may vote more than twice—once by virtue of the usual age and residence qualifications and again as the owner of a business in a different constituency or as a graduate of a university entitled to return members to the House of Commons. The following extract is from a speech by Philip Snowden in 1929 on a proposed amendment to the Franchise Bill then under discussion (*Parliamentary Debates*, CCXVII, 1929, 56-57)

The purpose of this Amendment can be very simply explained. It is to abolish plural voting at a general election, except in regard to the university franchise. This is a Bill for the assimilation of the franchise, and therefore it would not be possible, under the title of the Bill, to deal with the university franchise. My Amendment, therefore, is confined to the removal of the right, which exists under the present law, for a man to exercise two votes at a general election, one on a residential qualification and the other on a business qualification. The university vote, where such exists, will continue to be exercised if my Amendment is carried. Perhaps hon. Members will forgive me if I briefly mention what are the qualifications under the law as it now stands. A woman over 30 has a vote in respect of her husband's local government qualification. A man who has a residential qualification and also one or more business qualifications can vote twice, but not more than twice. He can vote in one constituency on his residential qualification, and he

(See Instructions on Back.)

The Declaration at foot MUST be signed.

FORM A.

REGISTER OF ELECTORS, 1933.

REPRESENTATION OF THE PEOPLE ACTS.

To, ... [or the Householder or Occupier] at

In order to assist the preparation of the Parliamentary and Local Government Registers of Electors, you are hereby required in pursuance of the above mentioned Acts to complete this Return and deliver it or send it by Post to the undersigned within days from this date

Date Registration Officer

(A person who fails to give the required Information or who gives False Information is liable to a Penalty of £20)

PART I—PARTICULARS OF PREMISES OCCUPIED.

Give full Postal Address of Occupier's Premises.

Give description of Premises, i.e., whether Dwelling house, or Flat or Tenement or Lodgings let unfurnished, or Dwelling house inhabited by virtue of service (See Instruction 3 on Back)

If any room or rooms are let off unfurnished by Occupier give name of the person to whom let in each case (This information is required to enable the Registration Officer to supply a separate Form to any such person)

PART II—PARTICULARS AS TO RESIDENTS AGED 21 YEARS OR OVER.

Enter below particulars of every Man and Woman aged 21 years or over on 1st June, 1933 who ordinarily resides on the above premises including the occupier and occupier's wife or husband and members of occupier's family and domestics and boarders and lodgers in lodgings let to them furnished.

NAMES (Enter only Persons aged 21 years or over on 1st June, 1933.)		Sex Enter M for male F for female	Whether British Subject. Yes or No	Whether ordinarily resident on above premises on and over date 1st June, 1933. If so, say "Yes." If not give residence on and since that date. (See Instruction 5)
Surname.	Other Names in full.			
The Occupier				
Wife or Husband of Occupier				
Other Residents				

N.B.—No child or person less than 21 years old on 1st June, 1933, may be entered

[If space insufficient continue on a separate sheet headed Part II and attach it to this Return]

DECLARATION

I declare that, to the best of my knowledge and belief,

(a) the particulars given in Parts I, II and III of this Return are true and accurate

(b) all the persons whose names are entered in Parts II and III will be or were of the age of 21 years or over on 1st June, 1933

SIGNATURE

Adding where necessary title or other description e.g. for a woman "Mrs." "Miss" etc.

(PART III, NEW IN H.M. FORCES, NEW OVER)

Date
(4796) WUL2354A K1070 0 251M 425 10M Y2001

can vote in another constituency on his business qualification. In the case of women over 30 who have the vote by virtue of their husbands' local government qualification, at a general election they can exercise one vote only, but they have a choice of voting either where their husbands have the residential qualification or where they have the business qualification. In the name of assimilation or equality this Bill proposes to give two votes to the wife, just as the husband has had two votes hitherto. That will considerably increase the number of women voters.

Further, also, in the name of equality, the Bill proposes to give a business vote to the husband where the wife has a business qualification in her own right. As I said just now, these two changes will add a very large number of new voters, though it is a very small number by comparison with the total number of the electorate, still it is by no means a negligible number. It is important for hon. Members to remember that though the number of business qualifications is small by comparison with the 25,000,000 electors, these business qualifications are concentrated very largely in a few constituencies, and therefore it is quite possible that in certain constituencies the plural vote may have a very determining effect upon the result of the poll. We are opposed to this dual vote, because we believe it is quite inconsistent with the general basis of this Bill. As I said just now, there will be between 25,000,000 and 26,000,000 voters when the new register is compiled, and, according to the figures which the Home Secretary gave on the Second Reading, there will be something approaching 500,000 plural voters . . .

On the statement made by the right hon. Gentleman, the number of plural voters will be about doubled. The general basis of this Bill is the residential qualification. In other words, in the vast majority of cases the qualification for the vote will be citizenship, coupled with the qualification that the citizen has resided in a particular locality for a certain number of months. We submit that the dual vote is quite inconsistent with the general principle of the Bill. Up to the Reform Act of 1884, when the franchise was extended, the basis had been, in fact, a property qualification. This dual voting is a perpetuation of the property qualification for the exercise of the franchise. Surely, now that we are broadening out the basis of the franchise, and including practically everybody over 21 years of age, the time has come when we ought to remove from the franchise qualification all that savours of the old property

system That is the reason I am moving this Amendment I cannot imagine that there can be any logical defence for the perpetuation of the dual vote If it is going to be justified on the ground that the man has an interest established by having an office or practice or business premises, surely if he has business premises or offices in half-a-dozen constituencies it would only be logical that he should exercise a vote in half-a-dozen constituencies As a matter of fact, that limitation of the property franchise cannot be defended upon any logical grounds.

54 RECENT GENERAL ELECTIONS

There have been seven general elections since the Armistice of 1918 The results of the last four of them, given below, show the varying political fortunes of the parties From these tables it is apparent that the Labour party reached the peak of its strength in 1929, that Liberal support has been dwindling, and that the Conservatives have dominated British affairs for some time In the last two elections of 1931 and 1935 the National coalition, under Conservative control, has obtained enough seats in the House of Commons to enable it to govern. As the figures indicate, the Liberal and Labour parties have recently been split, factions of each voting with the National government The data on page 158 also show the relative strength of the parties in England, Scotland, Wales and North Ireland (*Constitutional Year Book*, 1938, p 274)

55. MAKING AN M.P.

Political campaigns on a national scale in Great Britain are confined to the election of members of the House of Commons generally every four or five years That means that there is little of the elaborate party machinery which in the United States is in almost constant operation Yet an English campaign, short and strenuous, has its own requirements of sound electioneering, develops its peculiar types of appeals to voters, imposes rigid conventions of conduct upon candidates. What

1924

1929

Division	Conservative	Liberal	Labour	Independent	Total
England	227	124	138	3	492
Wales	4	12	19	1	36
Scotland	16	23	24	1	74
North Ireland	11	—	—	2	13
Total	258	159	191	7	615

Division	Conservative	Liberal	Labour	Independent	Total
England	226	35	226	8	492
Wales	1	10	25	—	36
Scotland	22	14	37	1	74
North Ireland	11	—	—	2	13
Total	260	59	288	11	615

1931

Division	Conservative	National Labour	Liberal	National Labour	Labour	Independent Labour	Independent	Total
England	403	23	20	11	29	—	3	492
Wales	6	4	5	1	16	4	—	36
Scotland	50	8	8	1	7	—	—	74
North Ireland	11	—	—	—	—	—	2	13
Total	470	35	33	13	52	4	5	615

1935

Division	Conservative	National Labour	Liberal	National Labour	Labour	Independent Labour	Comm.	Independent	Total
England	333	2	23	6	116	—	—	2	492
Wales	6	1	3	1	18	—	—	—	36
Scotland	37	—	8	1	20	4	1	—	74
North Ireland	11	—	—	—	—	—	—	2	13
Total	387	3	34	8	154	4	1	4	615

some of these requirements are and how they differ from American elections is vividly told in the following selection written by a former member of parliament (Rt Hon H B Lees-Smith, "The Making of an M P.," *New York Herald Tribune*, November 17, 1935) ¹

An Englishman who aspires to be a candidate for the House of Commons, instead of going through the primaries, has a private meeting with about a dozen people—the Executive Committee of the local organization of his party. After an informal conversation, they decide whether he shall be their candidate or not.

Whereas in the United States a candidate for Congress must be a resident of the area he represents, in England he is in most cases a stranger to the district. Winston Churchill, for instance, has been a candidate or Member of Parliament for the cotton town of Oldham, the commercial town of Manchester, the jute manufacturing town of Dundee, the hosiery town of Leicester, the aristocratic area of Westminster and the farming area of Surrey—and he has never lived in any of them. The English M P stays in his constituency only about three weeks a year. He answers about 20 letters a week from constituents, and he may get a job for one of them about once in five years.

No class shows a greater desire for membership in Parliament than the younger aristocracy, a brilliant youth from Oxford or Cambridge takes it for granted that he will become a candidate. The reason is that the life of a member of Parliament is surrounded by a glamour that no other occupation enjoys. The House of Commons is still "the best club in London", to be invited to "tea on the Terrace" of the House is still a privilege. The young M P finds that at fashionable dinner parties he alone is permitted to appear without evening dress, because of the fiction that he is too busy to change.

At the other end of the scale of candidates are the working men. The last House of Commons contained more than 30 coal miners, and many steelworkers, railway men, bricklayers and carpenters. Some of them lost their seats at the last election, and are now back at their former jobs. Some members of the House had been receiving the dole up to the day they were elected, and it created

¹ Reprinted by permission of the author and *This Week Magazine*. Copyrighted 1936 by the New York Herald Tribune, Inc.

no public surprise when they passed from the unemployment queue to Parliament.

The actual election is spread over some three weeks, the candidate making about three speeches a night in the halls of the local schools. These meetings are in most places very quiet, with no interruptions, but with very active heckling at the end. Personal attacks upon the rival candidate are very rare, and the most experienced candidates never mention his name.

The most important meetings in industrial constituencies are those held in the middle of the day. At about 1.15, when the workers are returning from their meal, the candidate holds a quarter-hour meeting, under conditions which are an acid test of his capacity. When he begins, his audience consists of perhaps a dozen, at 1.20 it is 500, at 1.25 comes the critical five minutes when the crowd numbers 5,000. Meanwhile engines are buzzing, sirens blowing, streetcars passing, and his audience moving continually. If the candidate's personality can dominate all these distractions he is a made man. At 1.30 the hooter sounds, and within a minute he is left facing an empty yard. These meetings can win or lose an election, for the non-political men and women who will not turn out in the evening are present then.

However, even in the most exciting election not more than one fifth of the voters attend meetings. To reach the others, each candidate sends out a formal election address and statement of policy with photographs of himself, his wife and even his children. The Post Office sends a copy of this free to every voter. But these addresses are so formal that they lack punch. The real battle is waged by leaflets which the rival candidates issue as one subject after another comes to the front. A good leaflet is more important than a good speech, and a smashing hit issued to every voter on the morning of election day has often won the battle.

All this, of course, costs money, but the expenses of each candidate are limited by law to about \$5,000. Usually one third of this amount comes from his own pocket, one third from local supporters, and one third from party headquarters. Ten days before the poll each candidate must hand over \$750 to the Mayor to show that he is a bona fide candidate. The money will be returned only if he polls more than one-eighth of the total vote cast. The object of this rule is to discourage frivolous candidatures. Incidentally, it has kept down the number of Communist candidates.

On election day the candidates and their wives spend 12 hours driving slowly around the constituency in large open cars decorated with streamers, flowers, mascots and balloons, all in their party colors. And, as the schools are being used as polling booths, the children have a holiday which they spend in cheering or booing the candidates. An experienced candidate can generally forecast the election result by 11 o'clock in the morning from the reception the children have given him.

The polls are closed at eight in the evening. Clerks of the local banks count the ballots at the Town Hall in the presence of the candidates, their wives, a few supporters, and the Mayor, who from a balcony announces the result to the thousands collected outside. A sudden stillness descends upon the multitude when the spotlight is turned upon the balcony, they know that the man who will emerge first upon it is the victor. When he appears the pent-up political feelings of the last five years unite in a roar of triumph and execration.

The victor makes a short speech of thanks, no single word of which is ever heard, and then hands himself over to the crowd to be carried through the streets until, between three and four in the morning, his supporters escort him home.

56 THE PROGRAM OF THE CONSERVATIVE PARTY

The last authoritative statement of Conservative policy was issued on October 26, 1935, just prior to the general election. It was published under the title of the "National Government Manifesto." Although nominally representing the program of the National Coalition, actually it was a Conservative document, for at that time four hundred and seventy of the National Government's supporters in the House of Commons were Conservatives. Since the time that the Manifesto was set before the people, the National Government has forsaken its pledge to collective security through the League of Nations (*National Government Manifesto*, October 26, 1935).

The League of Nations—The League of Nations will remain, as heretofore, the keystone of British foreign policy. The prevention of war and the establishment of settled peace in the world must always be the most vital interest of the British People, and

the League is the instrument which has been framed and to which we look for the attainment of these objects .

Peace and Defence—Peace is not only the first interest of the British people, it is the object to which all their hopes and efforts are directed But our influence can be fully exerted only if we are recognised to be strong enough to fulfil any obligations which, jointly with others, we may undertake The fact is that the actual condition of our defence forces is not satisfactory We have made it clear that we must in the course of the next few years do what is necessary to repair the gaps in our defences, which have accumulated over the past decade, and we shall in due course present to Parliament our proposals, which will include provisions to ensure that the programme is carried out without either waste or unreasonable profit to contractors

Imperial Policy—The Agreements entered into at Ottawa in 1932 marked the beginning of a new epoch in inter-Imperial trading relations The results of those Agreements have increased employment both in the Dominions and in this country, without injuring the rest of the world, and it is our intention further to promote the exchange of goods between ourselves and our partners in the Empire, believing that any increase in their prosperity will always be reflected in an increase in the volume of British trade and employment

Overseas Trade—It will be our endeavour to continue the policy of reducing these barriers by means of bilateral commercial treaties, which has already had so beneficial an effect in increasing our exports to the countries with whom we have been able to make trade agreements

Agriculture—A prosperous countryside is an essential foundation of national well-being The National Government have from the first recognised that agriculture is not one but many industries, each working under different conditions and requiring different treatment for its improvement Accordingly, they have had to make use of import duties, levies, or combinations of these devices according to the circumstances of each case . . .

In all branches of agriculture our policy has been and will remain one of expansion of the home market As the market expands home production can expand with it, and in this way only can a real opportunity be afforded for new men to make a career on the land

Fisheries—The Government have recognised the great importance of the fishing industry and have taken vigorous and far-reaching measures to assist the fishermen round our coasts. Here again our policy is to extend the market both at home and abroad. We shall not slacken in our efforts to carry this policy into effect.

Employment—The remarkable fact that more persons are now employed in this country than ever before in its whole history has not sprung from accident or the unfettered operation of natural laws. It has been the result of the deliberate policy of the Government in protecting the home market and in creating a regime of cheap money, which has facilitated enterprise and stimulated industrial expansion. In particular cheap money, resulting from the increased confidence in Great Britain, has been the most powerful factor in bringing about the phenomenal growth of the building industry, which is the most far-reaching of all home industries in the wide field of employment which it creates.

The Government are constantly working on all kinds of plans by which they may make use of the present favourable circumstances to initiate new enterprises, thereby creating additional employment by use of credit or other resources of the State. The building of the "Queen Mary," the subsidy to tramp shipping, the production of oil from coal by the hydrogenation process, and the great scheme of London transport improvements, at a cost of between £30 and £40 millions, are instances in point. Further schemes of a similar character are under consideration and will, if the National Government are returned to power, be announced from time to time as they mature.

The Special Areas.—It is generally recognised that the depression of the Special Areas has been brought about by the contraction in certain large industries, prominent among which is coal-mining. Any improvement in this industry, therefore, while it would affect much larger districts than are comprised in the Special Areas, would bring particular benefits to them. The Government are convinced that improved selling arrangements, without which there is not the money in the industry to provide a higher rate of wages, should be put into operation, and if given the opportunity, we shall devote our energy to ensuring that measures to attain this object are adopted at an early date. We have further decided to effect the unification of coal-mining royalties, a step

which will enable greater progress to be made with the organisation of production and thus improve the efficiency of the industry. Nor shall we neglect the problems of safety in coal-mining.

Social Reform—On the foundations which sound financial policy has laid, new and rapid progress in Social Reform has again become possible. We have already referred to the immense development in housing. In the four years during which the Government have been in Office more than 1,000,000 houses have been built. A very considerable proportion are small houses, and a substantial number which are being erected to-day are houses "to let." The Slum Clearance campaign is actively proceeding. Already 420,000 occupiers have been actually rehoused, and transfer to new and well-built homes is now proceeding at the unprecedented rate of over 200,000 persons a year.

There are a number of other Social Reforms long delayed by the necessity of first restoring the national finances, which are now ripe for action. The Contributory Pensions scheme has been a boon of inestimable value to large numbers of the people.

Finally, a great combined effort should now be made to raise still further the general standard of health of the Nation, especially that of the younger generation. It will require a simultaneous attack on many fronts. We must further improve our maternity services and make provision for medical assistance at points where there is a gap in the existing services.

57 LIBERAL POLICY

The following resolutions were adopted by the Assembly of the Liberal party at Bath on May 19 and 20, 1938. They outline Liberal policy on current British problems (*Liberal Policy, Resolutions Adopted on May 19 and 20, 1938*).

FOREIGN POLICY

"That this Assembly of the Liberal Party earnestly desires peace and friendship with all nations, whatever their forms of Government, and condemns efforts to divide the nations into ideological camps. It nevertheless recognises that our security and the defence of freedom, and the rights of small nations against those governments which are using war as an instrument of national policy, require an expansion of British armaments.

"The Assembly finally declares that peace can only be preserved and adequate protection afforded to the world-wide interests of Great Britain if His Majesty's Government will resolutely pursue the policy of Collective Security and the Collective enforcement of Justice

'OWNERSHIP FOR ALL'

"This Assembly of the Liberal Party views with indignation the present condition of society, under which the control of property is concentrated in the hands of comparatively few, whilst a large majority possess little or nothing that they can call their own. It regards such a system as morally indefensible, economically objectionable and politically perilous. It holds the possession of property to be a guarantee of security and independence, and considers its widespread distribution essential to the preservation of our civil and political liberties, now threatened from both the Right and the Left. It declares war on monopoly, privilege and Protection, and is as much opposed to the capitalist-collectivism that is being established under the present Government through the fostering of monopolies, rings and trusts, as it is to the Socialist policy of vesting all ownership in the State. It demands the abolition of unjust and obstructive taxation and rating, declares that public revenue should be derived as far as possible from the publicly created value of land, apart from buildings and improvements, insists on fair play for the small man, and calls for drastic reform of the laws of inheritance.

PUBLIC ECONOMY

"In view of the heavy and ever-growing burdens of both direct and indirect taxation, and the alarming increase in our dead-weight debt, largely consequent upon the increase of armaments, this Assembly of the Liberal Party urges that a special Committee be immediately appointed by the Government to examine and overhaul the finances of all the spending departments in order to ensure public economy and to stop the waste of public money.

UNEMPLOYMENT

"Having regard to the continuance of large-scale unemployment in many industrial centres, and fearing that, by reason of the international situation, the urgency of the problem may be overlooked,

this Assembly reiterates its demand for prompt and effective action by the Government to remedy the evil of unemployment, particularly in the distressed areas, where men, women and children are compelled, through no fault of their own, to exist in appalling social conditions.

"To achieve recovery there must be appeasement of the international situation and the re-establishment of overseas trade by the removal of trade barriers, the stabilisation of currencies and the removal of exchange restrictions

"Meanwhile, the Assembly demands the abolition of the Household Means Test, and the speeding-up of measures of relief and reconstruction in the Special Areas. It considers that an immediate contribution to the reduction of the unemployment problem could be made by providing a really effective raising of the school-leaving age, and the extension of the pension area to facilitate the voluntary retirement from industry of the older men and women.

ELECTORAL REFORM

"In view of the important part which the method of electing the House of Commons has played in shaping the history of the post-war years, including that of the current year, and of the part which it must continue to play in shaping our national development and the history of the world,

"This Assembly of the Liberal Party declares that to secure Parliaments that are fully and fairly representative of our nation by the adoption of the system of Proportional Representation, is a supreme and urgent necessity, and it therefore urges all Liberals to concentrate their efforts upon the attainment of this reform

SOCIAL SERVICES

"That the Social Services as established by the Liberal Government before the War are now, owing to altered circumstances, wholly inadequate and great hardship and poverty are resulting.

"It is, therefore, imperative that the Liberal Party should make every possible effort to obtain immediate Parliamentary action to reconstitute these Measures, preference being given to the Health Insurance Act (including the Widows, Orphans and Old Age Pensions section) so that it may afford its recipients reasonable living conditions.

HOLIDAYS WITH PAY

"That this Assembly of the Liberal Party is desirous of supporting such Legislation as shall make holidays with pay the rule in Industrial and Agricultural Britain

RESTRICTIVE LEGISLATION

"That this Assembly of the Liberal Party views with great concern the restrictive legislative measures introduced into present-day industry by the National Government, resulting in the formation of Combines and Company Amalgamations, and calls upon the Country to oppose Tariffs and the various pernicious marketing schemes which thwart economic and social liberty and create monopolies

EQUALITY OF OPPORTUNITY

"That this Assembly of the Liberal Party recommends that the terms of reference of the proposed enquiry into the providing of greater equality of opportunity be extended to include other questions affecting the basic Liberal economic policy of (1) maximising national income and (2) providing assured incomes from employment for all that among such questions be considered

- (a) localisation of industries and the Special Areas,
- (b) facilities for training and movement of the unemployed,
- (c) long-term balancing of the budget,
- (d) international trade and a low tariff group "

58 THE LABOUR PARTY PROGRAM

The policies of the Labour party are declared from time to time by the National Executive Committee. The following program was prepared at the annual conference at Edinburgh in November, 1936, and was published in March, 1937. It describes the measures of socialism and social amelioration which a Labour government would try to put into effect if brought into power (*Labour's Immediate Program*, March, 1937)

SOCIALISM

The Labour Party's goal is the Socialist Commonwealth. It is determined to use the resources of our country so as to create a real prosperity in which all shall share.

Four Vital Measures of Reconstruction

1. FINANCE

No nation can plan its economic life unless it can control both its finance and its financiers. The Bank of England, like the Central Bank in most other countries, will become a Public Institution. It will be administered by practical and experienced men under the general direction of the Government. Through the Bank of England credit will be controlled in the interests of trade and employment.

New investment will also be controlled through a National Investment Board, whose duty will be to mobilise our financial resources, to guide them into the right channels, and to advise the Government on a financial plan for the full employment of our people. Large schemes of Public Development, including Housing, Electrification, Transport, and the extraction of Oil from Coal, will be carried out.

Taxation will be used to secure a better distribution of wealth and purchasing power, and to provide funds for the extension of the Social Services. The penal taxation of Co-operative Societies will be repealed.

2. THE LAND

The land should belong to the people, and national planning requires that the use of land shall be controlled in the public interest. Without such control it is impossible to use the limited area of this country to the best advantage, whether for agriculture, industry, or other purposes. Houses, schools, and other necessary buildings, playing fields, open spaces, and national parks must be provided.

The small householder and owner occupier, however, will be left in undisputed possession of his home. Protection of the Tenant through the Rent Restrictions Acts will be continued and extended, and the tied cottage system will be abolished.

3 TRANSPORT

Competition in Transport, especially between private undertakings, is wasteful, inefficient and dangerous. A National Transport Board will therefore be set up to co-ordinate Transport by Road, Rail, Air, and Coastwise Shipping, and to own and operate the Railways and such other Transport Services as are suitable for transfer to Public Ownership. It will be the duty of this Board to give the nation a safe, cheap, and efficient Transport System with good conditions of labour for its employees.

4 COAL AND POWER

The Coal Industry is in the hands of a swarm of private owners. Many Commissions of Inquiry have shown that its management is hopelessly inefficient. The Coal Industry, including Coal Treatment and Marketing, will therefore be unified under Public Ownership. The first charge on the industry will be a living wage and safety for the miner.

The Electricity and Gas Supply Industries, already partly owned by public bodies and subject to regulation, will likewise be brought completely under Public Ownership.

Four Great Benefits

Labour's policy will bring four great benefits to the people—abundant food, good wages, leisure and security.

1. FOOD

It is a scandal that so many people, including young children, should be suffering to-day from malnutrition. This is largely due to gross inequality of wealth, but also to chaos and profiteering by middlemen in the nation's food supplies. A Labour Government will organise home production and will control imports so as to ensure to the home producer a fair price for his produce and to make available to all a plentiful supply of good food. In particular, sufficient and suitable food will be assured through the social services, for children and for expectant and nursing mothers. A living wage for the worker on the land will be the first charge on British Agriculture. By a full use of Co-operative undertakings and Marketing Boards the present wide gap between what the producer receives and what the consumer pays will be narrowed.

2. WAGES

A Labour Government will co-operate with the Trade Unions to improve wage standards and will make any assistance to private enterprise conditional on the observance of Trade Union wages and conditions. It will seek to promote through the International Labour Office the adoption of Conventions to improve labour standards throughout the world.

3 LEISURE

A universal legal obligation to pay for the present statutory public holidays will be imposed, and, in addition, a universal statutory period of holiday with pay each year will be enacted.

Legislation will be introduced for shorter working hours, taking as a standard a 40-Hour Working Week, with such adaptations as may be necessary.

4 SECURITY

Labour will launch a determined attack on insecurity due to fear of unemployment and loss of livelihood.

Vigorous measures will be adopted to increase employment, and to concentrate the available work on those best fitted to perform it. All children will be kept at school till 15, and as soon as the necessary arrangements can be made, till 16, with maintenance allowances. Provision will be made for improved pensions on condition that pensioners retire from industry.

The Distressed Areas

Immediate remedies must be found for the terrible conditions prevailing in the Distressed Areas. The State must accept responsibility for the location of industry. Labour will take steps to bring new industries into these areas, will encourage existing industries, develop local resources and improve communications, assist Local Authorities and relieve the crushing burden of local rates.

Foreign Policy and Defence

A Labour Government will make every endeavour to remove the economic causes of international rivalry, and to enable all peaceful nations to share, on fair terms, in the abundant wealth of the world. It will take the lead in seeking to strengthen and rein-

vigorate the League of Nations as an instrument of international co-operation and Collective Security

A Labour Government will unhesitatingly maintain such armed forces as are necessary to defend our country and to fulfil our obligations as a member of the British Commonwealth and of the League of Nations. A Bill will be passed enabling the Government to take over any undertakings manufacturing munitions of war

CHAPTER IX

THE JUDICIAL SYSTEM

59 THE FOUNTAIN OF JUSTICE

IN theory the king is now, as always, the "fountain of justice." Kings were once personally responsible for the administration of justice, but it was inevitable that this duty should be delegated to judges as cases became more numerous and the common law developed into a technical system requiring specialized knowledge. Even today the courts act in the name of the king, and the theory that the king is the ultimate source of justice is basic to the work of the Judicial Committee of the Privy Council.

That the king may no longer administer justice himself was decided in an opinion given by Coke in 1607. At that time James I claimed the right to determine judicially a dispute between the common-law courts and the ecclesiastical courts. The decision of the court denied him that right. Coke's statement is given below. (*Prohibitions del Roy* [1607] 12 Co Rep 63; K and L 276.)

The King in his own person cannot adjudge any case, either criminal, or treason, felony, etc., or betwixt party and party, concerning his inheritance, chattels or goods, etc., but this ought to be determined and adjudged in some court of justice according to the law and custom of England. God had endowed His Majesty

with excellent science and great endowments of nature, but His Majesty was not learned in the laws of his realm of England, and causes which concern the life, or inheritance, or goods or fortunes of his subjects are not to be decided by natural reason, but by the artificial reason and judgment of law, which law is an art which requires long study and experience, before that a man can attain to the cognizance of it. The law is the golden met-wand and measure to try the causes of the subjects, and which protected His Majesty in safety and peace

60 THE COMMON LAW

The common law is an extremely complicated legal system the origins of which may be traced back into the Saxon period. As a result of the "dooms" issued by the kings, the decisions of judges, and the commentaries of jurists, rules which were common to the entire country gradually supplanted the local customs which had developed. Today those rules are in the form of pronouncements by the courts and may be ascertained by a study of their decisions and opinions. This imposes a heavy task on the legal profession. Suggestions have been made in England that the law be codified so that its content may be more readily available both to laymen and to lawyers. The extract below is a part of a debate in the House of Commons on such a proposal (*Parliamentary Debates*, CCLXXIII, 1932, 1107-9, 1142-43.)

MR LLEWELLYN-JONES. Law Reform has always been taken to include improvement of the form of the law, and to-day, having regard to the fact that the grosser faults of English law have been removed I believe that our most important concern ought to be the reduction of the law to a more orderly and systematic shape. Lord Bryce in one of his "Studies in History and Jurisprudence" suggests two outstanding questions. First, how are we to frame out of the chaotic mass of our reported cases and Statutes an organised body of rules—a digest or a code? Secondly, how can Acts of Parliament be drawn more concisely and symmetrically? I am reminded of Tennyson's description of the Common Law of England.

"The lawless science of our law,
The codeless myriad of precedent,
The wilderness of single instances,
Through which a few, by wit or fortune led,
May beat a pathway out to wealth and fame"

Is it not time that our legislature, assisted by the ripe experience of our higher judiciary and eminent jurists should do something to meet this reproach? I need hardly say that the ultimate aim of every law reformer in this country has been the codification of our law and it may be well, at this point, to refer to a passage written by one of the most eminent jurists of the British Empire who has now passed away, Sir John Salmond, formerly Attorney-General and afterwards judge of the Supreme Court of New Zealand. This is what he said with regard to codification

"The advantages of enacted law so greatly outweigh its defects that there can be no doubt as to the ultimate issue of its rivalry with the other forms of legal development and expression. The whole tendency in modern times is towards a process which, since the days of Bentham, has been known as codification, that is to say, the reduction of the whole *corpus juris*, so far as practicable, to the form of enacted law. In this respect England lags far behind the Continent. Since the middle of the eighteenth century the process has been going on in European countries and is now all but complete. Nearly everywhere the old medley of civil, canon, customary and enacted law has given place to codes constructed with more or less skill and success. Even in England and the other countries to which English law has spread, tentative steps are being taken on the same road. Certain isolated and well-developed portions of the common law such as the law of bills of exchange, of partnership and of sale, have been selected for transformation into statutory form. The process is one of exceeding difficulty, owing to the complexity and elaboration of English legal doctrine. Many portions of the law are not yet ripe for it, and premature codification is worse than none at all. But the final result is not doubtful."

I see that a year ago at the Guildhall banquet, the Attorney-General replying on behalf of the Bar of England, expressed the hope that one task would not be overlooked, namely, the consideration of the possibility of codifying or simplifying some topics of the law. I quite realise that general codification might not be practicable at present but a good deal of partial codification might

be undertaken by the Government I would suggest particularly the possibility of the reduction of our criminal law and the law of criminal procedure to a code Last year His Majesty's Stationery Office printed a translation of the new Italian penal code It is a comparatively small volume I do not think it has more than 200 pages but the whole of the criminal code of Italy is comprised in it Here is an indication to our legislators as to what can be done

The SOLICITOR-GENERAL I am not prepared to give any particular undertaking, but I was going to deal with the question of codification and consolidation in a few sentences I entirely agree with the hon. Member for Preston (Mr Moreing) that you do not solve all evils merely by codification, because, first of all, you have to make up your mind what you mean by codification. On the Continent some codes are really only a statement of general principles They do not condescend to the details which we consider to be necessary Take an extreme instance It is no use merely saying in an Act of Parliament, "Thou shalt not steal," without making it quite clear what it is you mean by stealing in its various aspects Therefore, mere generalisation in a code is no use If you are going to have very elaborate codes, let it be recognised that that is unquestionably the work of experts, and that it takes an enormous amount of time

The hon Member for Preston truly said that there have been very signal successes in codification, but there have also been very signal failures The hon Member who moved the Motion spoke of the codification of the criminal law That was actually in process when the War broke out, and some very useful codes were passed, but when the thing was resumed after the War there was—I am not going into details—one very signal failure, and upon that the attempt to carry the codification of the criminal law any further broke down

61 THE LEGAL PROFESSION

The English legal profession is divided into two groups, barristers and solicitors The client deals directly with a solicitor, who prepares the case and who selects a barrister to present it in court.

A barrister is a member of one of the four Inns of Court

For centuries, these bodies have had control over legal education and admission to the bar. Solicitors may not be members of the Inns of Court, the standards of admission being fixed for that branch of the profession by statutes of parliament. The article below describes the Inns of Court and the qualifications of solicitors (A. M. Carr-Saunders and P. A. Wilson, *The Professions*, 1933, pp. 7-20) ¹

BARRISTERS

The organization of the Bar has grown up round the four Inns of Court: Lincoln's Inn, the Inner Temple, the Middle Temple, and Gray's Inn. Each of these bodies is governed by a similar constitution, characterized by Sir Frederick Pollock as "a survival of medieval republican oligarchy, the purest, I should think, to be found in Europe." They are voluntary unincorporated societies consisting of benchers, barristers, and students, the benchers, who form the governing body, fill vacancies in their number by co-option from among the barristers, and in practice consist of the senior members, including any judges who may belong to the Inn. But no member, whatever his seniority or standing, not even a judge, has any right to be called to the bench.

It is the benchers in each Inn who confer the degree of "barrister-at-law" by calling one of their students to the bar. By agreement between the benchers the qualifications for call are the same in each Inn. The candidate must first show that he is a "gentle of respectability" and has received a general education up to school certificate standard. If he is a solicitor he must procure the removal of his name from the roll of solicitors. After being elected a student he is required to "keep" twelve terms in his Inn. "Keeping," however, does not involve residence, but merely "eating dinners." There are four terms in the year, and a term is "kept" by dining six times in hall during the term—three times in the case of members of a university. By giving twelve months' notice a student who has practised as a solicitor for five consecutive years becomes exempted altogether from the keeping of the terms.

During the waiting period the student is "recommended" to "read in chambers"—that is, to become the pupil of a barrister—"for the purpose of studying the practice of the law." Alternatively

¹ Reprinted by permission of The Clarendon Press, Oxford, England

he may become the pupil of a solicitor for not more than a year, though in the latter case he cannot be called until a year has elapsed from the date of his leaving the solicitor's office. Yet, though it rests with him whether he employs the period of his studentship in "studying the practice of the law," he is nevertheless absolutely debarred from practising most of the other professions and from engaging in "trade."

Before he can be called, the student must produce a certificate from the Council of Legal Education showing that he has passed the examinations held by that body. The Council was set up in 1852 by agreement between the four Inns to superintend the education of students. It consists of twenty benchers, five appointed by each Inn, but they are, in the words of one of their number, "delegates with limited powers, not a federal council. The regulations we administer are made by the authority of the four Inns, and cannot be altered without the consent of all of them . . . There is nothing, in form, to prevent any one Inn from destroying the whole scheme by secession. When we desire an amendment in our regulations, we report it to the four Inns, and if the general sense of the Council is clear in the matter the consent of the Inns is almost always given." Besides holding examinations the Council provides for the giving of lectures, and appoints a Director of Studies to assist students in their reading. But, though payment of the necessary fees cannot be escaped, attendance at the lectures is voluntary, while the numbers involved make it impossible for the Director of Studies to give any personal attention to the requirements of individual students. Partly for this reason, and partly because a factual examination in the law as it exists at any given time lends itself to the activities of a crammer, many students attend the classes of private-venture "coaches." The standard required for a pass in the examination, though believed to have been raised in recent years, is not high. On the other hand, the fees payable on admission as a student and on call to the bar are very considerable.

No one who has not been called to the bar of one of the Inns of Court will be heard to advocate any cause, other than his own, before the Court of Appeal, the High Court (including the Assizes), certain local courts such as the Liverpool Court of Passage, and many Courts of Quarter Sessions. In the House of Lords the right of audience is shared with the Bars of Scotland and Northern Ireland, in the Judicial Committee of the Privy Council with the

members of certain colonial Bars, and in the County Court, Courts of Summary Jurisdiction, and some Courts of Quarter Sessions, with solicitors Barristers also share with solicitors a legal monopoly of drafting, "for gain," conveyances and certain other legal documents Many judicial and other appointments, for example High Court and county court judgeships, are by law reserved to members of the Bar, others must be filled by a barrister or solicitor

The rigid separation of the English legal profession into two mutually exclusive "branches," which results from the rule forbidding the admission of a solicitor to an Inn of Court so long as he remains a solicitor, is familiar, but its implications are less well understood It is only in the drafting of documents that the functions of barristers and solicitors overlap The barrister's right of audience is not, save in certain inferior courts, shared by the solicitor Correspondingly, the taking of those initial steps by which the law is set in motion is part of the legal monopoly of solicitors and is wholly outside the sphere of counsel This has profoundly affected the relations between the public and the two branches of the profession The issue of a writ, or indeed the mere threat of proceedings, is generally enough to bring an opponent to terms It is the solicitor, therefore, whom the layman consults in the first instance, and a practice, which began as a natural consequence of the distribution of functions between the two branches of the profession, has since hardened into a rule of etiquette which makes it improper for counsel to accept a brief, other than a "dock-brief," except from a solicitor or the clerk to a local authority Thus the solicitor has become the general practitioner of the law, and counsel a specialist or consultant whose clients come to him, on the recommendation of their general legal adviser, only when a dispute has reached the stage of being taken into court, or when a second opinion is desired At that stage the solicitor is naturally anxious to secure for his client the best ability which his means can command In making his selection he is bound to have regard to established reputations But so long as call to the bar affords no real evidence of fitness to practise, established reputations must remain doubly important in the eyes of the solicitor . . .

SOLICITORS

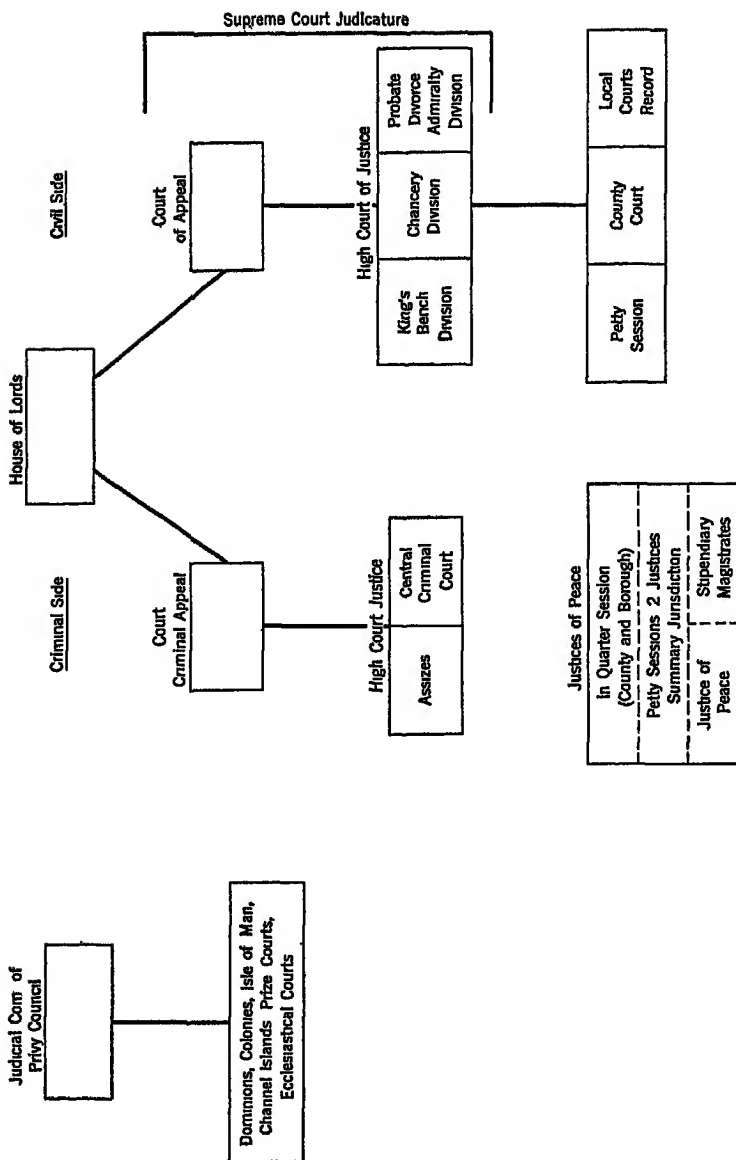
The solicitors' profession, unlike the Bar, is closely regulated by statute law The solicitor's primary function, upon which the rest

of his practice is based, is that of acting as general agent to persons engaged in litigation. From the Middle Ages down to comparatively recent times each of the superior courts maintained a panel or roll of persons from amongst whom the suitor had to select his agent. They were "officers of the court" and as such completely subject to its control. The court laid down the qualifications for admission, limited the fees which might be charged to clients, and maintained discipline through its power to strike off the roll. In the nineteenth century the ancient superior courts became merged in a single Supreme Court, with a single roll of "Solicitors of the Supreme Court."

In two respects the course of training prescribed by Parliament for solicitors shows a marked improvement on that laid down for barristers by the Inns of Court. Before a candidate can sit for the solicitors' final examination, he is obliged, unless he can satisfy the Law Society that it is "for geographical or other reasons impracticable," to have attended "a course of legal education" at a law school "approved" by the Society. The Society has its own school in Chancery Lane, and most of the universities and university colleges have "approved" schools. The second point of difference is in respect of practical training. At the Bar it is usual to serve a period of apprenticeship, but much of the necessary practical skill remains to be picked up during the early years of practice. For solicitors, on the other hand, apprenticeship is compulsory, every candidate for the final examination must have been "bound by contract in writing to serve as clerk" to a practising solicitor. The "articles," or terms of the contract, have given their name both to the contract itself ("articles") and to the "articles clerk." The normal period of articles is five years, though the term is reduced to three years in the case of university graduates, solicitors' clerks of ten years' standing (the "ten-year man"), and barristers of less than five years' standing. Barristers of five years' standing and upwards are exempted altogether, and, since they are also exempted from all the examinations except the final, it is easier for a barrister to become a solicitor than for a solicitor to be called to the bar.

62. THE COURT SYSTEM

The civil and criminal courts described in the accompanying diagram function only in England and Wales. Cases from



Northern Ireland and civil cases from Scotland may be appealed to the House of Lords under conditions defined by statute. The Judicial Committee of the Privy Council acts as an appellate court for cases originating in the dominions and colonies, the Channel Islands, the Isle of Man, prize courts, and ecclesiastical courts. The Irish Free State cut off appeals to the judicial committee from its courts in 1933 (John J. Clarke, *Outlines of Central Government*, 4th ed., 1929, p. 112) ¹

63. THE JUSTICE OF THE PEACE COURTS

The justice of the peace is one of England's oldest judicial authorities, and with the passing of time he often appears out of keeping with modern conditions. The criticisms leveled at the office include both the qualifications of appointees and the methods of transacting business. The following suggestions for reform come from a British critic and were made in the course of a review of several official reports and books which have appeared during the past few years (Claudd Mullins, "Justices of the Peace: Abolition or Reform?" *The Quarterly Review*, No. 526, October, 1935, pp. 224-37.) ²

There are just over a thousand Police Courts in England and Wales. Except in London and in eighteen other towns these courts are composed entirely of two or more lay Justices of the Peace, men and women.

In common with all our other legal institutions our Police Courts are being freely criticised, and this is wholly good. The anonymous "Solicitor" has, in his ultra-critical but somewhat unconstructive book "English Justice," gone so far as to say that "the working classes know of the injustice that occurs in Police Courts . . . The presumption of innocence does not exist in the Police Courts . . . That there are likely to be many innocent persons wrongfully convicted seems on the face of it probable. It is hard to make people understand the injustice that is done in the Police Courts

¹ Reprinted by permission of Sir Isaac Pitman and Sons, London.

² Reprinted by permission of *The Quarterly Review*, London.

. Many innocent persons are convicted, and many other irregularities are committed by the magistrates . . . ”

I heard Mr D N Pritt, K C, say at a meeting of the Howard League in the Middle Temple Hall, on April 3, 1935, that “the vast bulk of people in this country feared, hated, and despised Courts of Summary Jurisdiction” It is easy to write and say such things and it is equally easy to denounce and ignore such criticism as exaggerated I propose to do neither I am convinced that much of the criticism is justified and that many big reforms in our Police Courts are urgent But I believe also that much valuable work is being done and that reform should come by evolution, without any drastic sweeping away of the system that history has handed down to us

The key to reform seems, therefore, to lie in the remodelling of the Committees that advise the Lords Lieutenant about appointments to the bench . . . At the head of proposals for reform I, therefore, place the following

- 1 Advisory Committees might be re-constituted A proportion of their members might be nominated by county and/or municipal councils Local County Court judges, Recorders, stipendiary magistrates, etc, might be ex-officio members . . .

- 2 Advisory Committees could be bound to consider any names submitted by local chambers of commerce, trades councils, etc, or by any twelve local electors Any such submission should set out fully the qualifications and experience of the person proposed

- 3 The principle of selection for nomination could be that political or local government service shall neither qualify nor disqualify, but that the Committees shall be satisfied that the persons concerned have (a) independence and integrity of character, (b) judicial outlook and freedom from bias, and (c) ability and willingness to give the necessary time . . .

- 4 A distinction might be drawn between Justices of the Peace and Court Justices, only the latter being entitled to take part in judicial work

- 5 Membership of any local authority (which need not include nominated membership of municipal Committees) might disqualify from acting as Court Justice during such membership

- 6 It might be provided that no justice should be entitled to act as Court Justice until he or she has made a statutory declaration of having (a) attended a minimum number of sittings of Assizes,

Quarter Sessions, and Police Courts, (b) read and studied a minimum list of books about judicial work, (c) ability to give the time necessary for regular attendance at court, and (d) joined the Magistrates' Association .

7 No Bench need be composed of more than five Court Justices, smaller numbers being the maxima, as now, for Juvenile Courts and possibly for the hearing of matrimonial cases

8 No Justice over seventy should be permitted to act as Court Justice. .

9 Gradually a system of whole-time clerks to justices might be introduced, such clerks being civil servants and serving as many courts as can conveniently be grouped together Where local offices are desirable, arrangements could be made with local solicitors to act as deputies .

10 Quarter Sessions, both in town and country, might be presided over by a stipendiary chairman with proper legal qualifications and experience Where the volume of work is insufficient to justify a full-time appointment, the work could be combined for neighbouring areas, town and country Gradually the present system of having ad hoc Recorders in towns could cease

64 THE POOR MAN IN THE COURTS

England is famous throughout the world for the certainty and impartiality of the justice dispensed by her courts Yet the cost of litigation in England, as in many other countries, is sometimes a serious problem The following article gives certain facts as to the difficulties of the poorer classes before courts (D N Pritt, "The Poor Man in the Courts," *The New Statesman and Nation*, V, New Series, April 1, 1933, 409) ¹

The poor man, like the rich man, is no more safe from litigation than he is from a street accident Whilst he may well go through life without either, both may befall him at any moment

And how does the poor man fare when he does litigate? So far as civil litigation is concerned, we all have a vague and comforting belief that something called "the Poor Person's Department" looks

¹ Reprinted by permission of the author and of *The New Statesman and Nation*, London

after him, but that is only partly true. For the purpose of explaining the poor man's position in civil litigation we can divide him very roughly into two classes, those with under £2 10s per week and those with between £2 10s per week and, say £10 per week.

For the less poor of these two classes no provision of any kind beyond that of casual or organised charity is available, and for the poorer class the provision is woefully inadequate. Poor litigants in the High Court may resort to the Poor Person's Department for aid if they have virtually no property and if their total income is an extremely small sum, varying a little according to the size of their family and their living expenses, I have taken the figure of £2 10s as a fair average. But, admirable as is the work done by the Poor Person's Department, it meets only a fraction of the need of the very poor, for two reasons. In the first place, it only serves persons whose litigation can be instituted in the High Court, and it is probably correct to say that 97½ per cent of poor litigants are concerned in cases instituted in inferior courts, and are thus excluded from the benefit of the Poor Person's Department, landlord and tenant, affiliation and maintenance, minor accidents, workmen's compensation cases, disputes about personal possessions, and many miscellaneous matters, are "county court cases," and the poor man has no official help, not even the remission of the relatively very onerous court fees. But even the remaining 2½ per cent, who do find themselves in the High Court, have their difficulties, the remission of court fees and the careful and devoted service of solicitors and barristers are theirs, but they are expected in almost every case to deposit in advance, to cover out-of-pocket expenses which will probably but not certainly be incurred later, a sum which is seldom less than £5. Not a few of the little fragment of 2½ per cent are excluded by the operation of this rule, for there are millions of people in England who have never known what it is to have a whole £5 available, and litigation may descend upon any one of them at any moment.

How do the 97½ per cent fare in the inferior courts? A few of them get help of a kind, at a price, from speculative lawyers and spurious "legal aid societies." A few more get help from charitable organisations who struggle with the difficult task of supplying them with solicitors and counsel and the even more difficult task of finding the money to pay the court fees. The bulk of them abandon the struggle in despair, if they have a grievance which they ought

to present as plaintiffs, they leave the grievance to rankle, and go without justice, if they are defendants, they submit dumbly and in silent fury to defeat because they cannot fight. And the evil multiplies itself in sinister fashion, for it happens only too often that men whose just claims would be quickly conceded if they once issued a summons to enforce them find them resisted by astute and unconscientious opponents for no reason at all save the belief that they cannot find the money to issue a summons and take the case into court, and some men, too, are made defendants to doubtful claims which would never be asserted if they were thought capable of employing a solicitor to represent them in court.

So much for the poorest class, the most numerous class, the class that most needs help, in the result perhaps a little over 1 per cent. of them receive official assistance, a few more are helped by sporadic charities, the rest go under.

Is the next class much better off? Not very much. Those who are just not poor enough to be helped by the Poor Person's Department will often be refused help by charitable organisations on the ground that, if their financial position is such that official help is withheld from them because in theory they can afford to pay lawyers and it is not right to deprive lawyers of their fees, unofficial help should in general be refused on the same ground. The man with £3 per week, if he could somehow spare 10s a week, would take twenty weeks to save £10, and one cannot get much legal help for £10 when there are court fees and other out-of-pocket expenses to meet. Even if such a man can, somehow, sometime, by crippling himself, raise the money to pay for litigation, there is even then something wrong with a system which renders the onset of litigation more deadly for the innocent victim than the onset of disease, and makes it in general more costly to be sued by one's landlord for possession than to be heavily fined for driving a motor car to the public danger. Society is reluctant to let men die of disease merely because they are too poor to pay a doctor's fees, but it seems to remain unmoved whilst just rights die for want of legal aid.

If the poor litigant in civil cases is in sad straits, what of the litigants in criminal cases, the man accused of crime? They are all presumed to be innocent until their trial is over, and whilst that presumption is often rebutted, many accused are, nevertheless, innocent. The Poor Prisoners' Defence Act, 1930, which became law by the lucky chance of a place in the private members' ballot,

makes some provision, generally at the discretion of the magistrates, for furnishing legal aid to accused persons, but in the police court itself, where every case starts and nearly every case finishes, they will only be provided with legal aid if it appears to the court that "by reason of the gravity of the charge or of exceptional circumstances it is desirable in the interests of justice" that they should have such aid. It is a regrettable fact, but true, that only too many benches of magistrates do not like defended cases, and in actual practice the great majority of accused persons in England are not defended by solicitors or counsel. A wave of indignation passed over England a few years ago when it was discovered that accused persons in Ashanti who wanted lawyers to defend them could not have them, but is England any better, if many accused who want lawyers to defend them cannot get them unless they pay, and they have no money to pay?

The air is full of talk of reform in our courts, but attention is always paid first to the most articulate complaints, and reformers seem to concentrate at present on the more costly litigation, little being heard in public of the grievances of the poor litigant, which in private are poured out to the listener in heart-breaking sentences. Even the modest suggestion that there should be power in the County Courts to remit court fees to poor litigants has been rejected on the score of expense, poor men pay heavily to approach the seat of judgment, and there seems to be no hope of a liberal interpretation being given to the first statute printed in our "Statutes at Large," which is worth quoting

To all . . . our faithful subjects Greeting. Know ye that we, unto the Honour of Almighty God, and for the salvation of the souls of our progenitors and successors Kings of England, to the advancement of holy Church, and amendment of our Realm, of our meer and free will, have given and granted to all freemen of this our realm, these liberties following, to be kept in our kingdom of England for ever

We will sell to no man, we will not deny or defer to any man, either Justice or Right

65 THE LORDS AS A COURT

The House of Lords has always exercised judicial authority and has long served as the highest court of appeal. While in

theory the entire House of Lords constitutes the court, the actual judicial work is vested in the Lord Chancellor and seven Lords of Appeal in Ordinary. Except for its rarely used right of original jurisdiction in the trial of any of its own members who may be accused of serious offenses, the judicial work of the Lords is entirely appellate (M MacDonagh, *The Pageant of Parliament*, II, 78-86)¹

The judicial sittings of the House of Lords are unaffected by the adjournment, prorogation, or even the dissolution of Parliament. They are held as frequently as the list of appeals awaiting trial during term requires. The public are freely admitted.

In its composition, its procedure, and its environment, the House of Lords is utterly unlike any other Court. The Lord Chancellor enters the Chamber, wearing his long flowing robe and full-bottomed wig. He is preceded by the Serjeant-at-Arms, bearing the Mace on his shoulder, and by another officer of the House called the Purse-Bearer, carrying a richly embroidered satchel, which is supposed to hold the Great Seal of which the Chancellor is the Lord Keeper. The other Law Lords are already in their places. The Lord Chancellor takes his seat on the Woolsack and the Mace is placed behind him. The presence of the Mace indicates that the House of Lords is in being, whether for legislative or judicial purposes. The House always opens its proceedings with devotions. Prayers for Divine light and leading in the debates or trials are said by the junior Bishop, or, in his absence, by the Lord Chancellor. The responses are given by the other Law Lords.

But the doors of the Chamber have not yet been opened to the litigants and their counsel. Apart from the Lord Chancellor and the Law Lords, the only persons present at devotions are the Serjeant-at-Arms, the Purse-Bearer, one of the Clerks of the House, who takes minutes of the proceedings of the Court, its orders and judgments and the Yeomen Usher of the Black Rod. After prayers the Clerk reads the title of the first appeal case on the list. "Call in the parties in the case," says the Lord Chancellor to Black Rod, and thereupon the doors of the Chamber are thrown open. Immediately inside the portals is a low oak partition, or bar, running across the Chamber. This is the Bar. Here the lawyers, litigants, and

¹ Reprinted by permission of E. Benn and Company, London.

general public assemble. In the centre of the barrier there is a sort of pen, in which the Speaker stands when the Commons are summoned by Black Rod to the House of Lords, and within it counsel for both appellant and respondent, with their solicitors, are accommodated when the House sits as the Court of Appeal. The Lord Chancellor comes down from the Woolsack and takes his seat at a temporary table, spread with a scarlet cloth, placed near to the Bar. The other Law Lords sit on the front benches to the right and left of him, each having a small movable table provided with pens, ink and paper, and a copy of a book, purple-bound, containing the statements of the case on which the rival parties in the appeal about to be heard respectively rely. Unlike the Lord Chancellor, the Law Lords are in ordinary morning attire. How strange it seems that while in all the lower Law Courts the judges are distinguished by the imposing trappings of their office, here, in the Supreme Court of Appeal, the Lord Chancellor alone wears wig and gown. It is another indication that what we are witnessing is a sitting, not really of a Law Court, but of the House of Lords. The forms and procedure of a legislative body, rather than of a Law Court, are observed.

Every peer has the right to assist in the proceedings of the House of Lords, whether it sits as a Court of Appeal or as a branch of the Legislature. But in practice lay peers do not now interfere in the appellate business of the House, and the hearing of appeals is left entirely to what are called Law Lords. It was not always so. By an Act passed in 1824 every lay peer was bound to attend the House when it sat as a Court of Appeal at least once in a session, under a penalty of £50. Three Lords have always constituted a House for judicial as well as for legislative purposes. At that time the Court often consisted of the Lord Chancellor, or one of his surviving predecessors in office, and two lay peers. The decision in the appeal was, however, always left to the Law Lord. The lay peers were simply dumb figures brought in to form the quorum of three necessary to enable business to be transacted. Several attempts were unsuccessfully made to remedy this state of things before a solution was found. With a view to strengthening the legal element in the House by making peers of ex-judges of the High Court, it happened in 1856 that Queen Victoria, on the advice of Lord Palmerston's Government, revived the right of the Crown to make life peers which had been in abeyance for 400 years, and issued a patent

creating Sir James Parke, formerly a Baron of the Exchequer, Lord Wensleydale "for and during the term of his natural life" The Lords were jealous of their hereditary rank and privileges They disputed the right of the Crown to create peerages for life, and contended that hereditary peers only could have seats in the House "The very essence of Nobility," said Lord Malmesbury, "is in the succession to the title by posterity"

The Law Lords joined in the protest They regarded the relegating of a law peerage to a lower or secondary class in dignity as a dishonour to their profession Lord Lyndhurst, a Law Lord then in his eighty-sixth year, reappeared in the House of Lords to lead the opposition "What has the profession of the law done to merit this indignity?" he asked

In 1876 Lord Cairns—then the Lord Chancellor of Disraeli's Administration—also tried his hand at the reorganization of the judicature system The Appellate Jurisdiction Bill he brought in was passed and came into operation By it the judicial functions of the Lords were preserved, and the House, as the Supreme Court of Appeal, was made more efficient Formerly the House, sitting as the Court of Appeal, was often constituted, as we have seen, of one Law Lord and two lay peers The Act of 1876 provided that at least three Law Lords shall be present at the hearing and determination of appeals The Lord Chancellor of England continued to be the president of the Court Four Lords of Appeal in Ordinary were specially created by the Act of 1876 to assist in the discharge of judicial business The qualification required of a Lord of Appeal in Ordinary is that he has been a practising barrister in England or Ireland, or a practising advocate in Scotland The number of Lords of Appeal in Ordinary was subsequently increased to six . . .

An appeal may be made to the House of Lords from any order or judgment in a civil suit of the Court of Appeal in England, . . . or the Court of Session in Scotland Before the case has reached any of these appeal courts it must, of course, have been heard and decided in a lower tribunal, so that the question at issue has been the subject of a judgment in at least two courts—the court in which the suit originated and the Court of Appeal—before it comes finally before the House of Lords If the litigant who has lost in the Court of Appeal retains his faith in the justice of his cause, or is advised by counsel that the decision is against the law, he can obtain from the House of Lords a definite and conclusive judgment But this

final pronouncement by the highest legal authorities in the land on the point at issue is a very costly thing to obtain. The appellant who seeks to have the verdict of the court below reversed must give as security for costs—should the judgment of the House of Lords be against him—his personal obligation to the amount of £500, and the bond of a surety for £200.

Something else, besides giving security for costs, is required of the appellant beforehand. An appeal to the House of Lords is brought by way of petition. It must be addressed "To the Right Honourable the House of Lords," and set forth that it is "the humble petition and appeal" of So-and-so, praying that the judgment in such-and-such a case "may be reviewed before his Majesty the King in his Court of Parliament, in order that the said Court may determine what of right and according to the law and custom of this Realm ought to be done in the subject-matter of such appeal."

The case opens at once. No preliminary objections of a technical nature or applications for adjournment are allowed. Such points are previously dealt with by a Committee of the House of Lords called the Appeal Committee, which is appointed at the opening of every session to relieve the House of the task of seeing that the Standing Orders have been complied with by appellant, and of dealing with any objection of the respondent to the appeal being heard, or with any application for an extension of time. There is no bustle and no excitement. The methods of the Court are austere and judicial. No witnesses are examined. It is all argument. Brow-beating is, therefore, unknown. Two counsel are heard on each side. Though lawyers who are Members of the House of Commons are precluded from practicing as counsel before any Committee of the House of Commons, or from advising upon any Private Bill, or other proceeding before Parliament, they may plead at the Bar of the House of Lords in all judicial cases. The lawyer who opens the case stands at the centre of the Bar, and in a placid conversational style states at great length the facts and the points of law upon which he relies. Then counsel on the other side leisurely and with similar amplitude unfolds the case of his client. Their lordships listen with unwearied patience and the closest attention to the speeches. They interpose with questions only to seek information, or to make intelligible a point laboured by counsel. They may even be heard commenting on the obscurity or confusion of Acts of Parliament bearing on the

case which the House of Lords, and, perhaps, their lordships themselves, have had a share in framing Judgment is not, as a rule, delivered at the close of the arguments Knotty legal problems, or delicate and difficult points of equity, are always involved in these appeals, and therefore their lordships allow themselves plenty of time for the consideration of their judgment

On the day of judgment the Law Lords are not disposed in quite the same way as they were on the day the arguments were heard The Law Lords are again sitting on the front benches close to the Bar, with their little tables before them, but the Lord Chancellor is now on the Woolsack. Rising from his seat, the Lord Chancellor reads his judgment from a manuscript, and concludes by moving that it be agreed to—that the appeal be affirmed, altered, or reversed, as the case may be The Lord Chancellor is followed by the other Law Lords, in the order of precedence, each reading from a manuscript, in like manner, reasons justifying the decision to which he has come All begin their addresses with the invocation, "My Lords" They are supposed to be not Judges delivering judgment in a case, but Members of the House of Lords as a legislative assembly stating in debate the reasons why the House should take a particular course in regard to the question before it

When all the Law Lords have spoken, the question at issue is put in exactly the same form as if the House were sitting for the purposes of legislation Should the Lord Chancellor have, for example, arrived at a decision hostile to the appellant, he says "The question is that this appeal be dismissed As many as are of that opinion will say 'Content', of the contrary opinion, 'Not-Content'" and then he adds, "The Contents have it" The House is usually unanimous in its decisions But should there be a conflict of opinion among the Law Lords, judgment is pronounced in accordance with the views of the majority It is possible, however, that there may not be a majority one way or the other In the event of their lordships being equally divided in opinion, the decision of the Court of Appeal stands affirmed, and each party has to pay his own costs

66 THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

The Judicial Committee of the Privy Council acts as a court of appeal from the courts of the dominions, colonies, the

Channel Isles, the Isle of Man, and from the ecclesiastical courts and prize courts Appeals from South Ireland were made illegal by an amendment to the Irish Constitution in 1933, and this action was upheld in 1935 by the Judicial Committee as valid under the Statute of Westminster (1931) The personnel of the Judicial Committee includes the Lord Chancellor, the seven Lords of Appeal in Ordinary, the lord president of the council, all members of the Privy Council who have held high judicial offices, two judges with Indian legal experience, judges from the superior courts of the dominions, and not more than two judges from a high Indian court In theory the Judicial Committee is not a court but merely a committee of the Privy Council Appeals are made nominally to the king, who in turn seeks the advice of the Council Furthermore, it is an imperial organization and not merely British These theoretical considerations were discussed by Lord Haldane before the Judicial Committee on the occasion of a hearing in 1926 The extract below was taken from his remarks (Speech of Lord Haldane in *Hull vs McKenna and Others* [1926] I R 402)

We are not Ministers in any sense, we are a Committee of Privy Councillors who are acting in the capacity of judges, but the peculiarity of the situation is this it is a long-standing constitutional anomaly that we are really a Committee of the Privy Council giving advice to His Majesty, but in a judicial spirit We have nothing to do with policies, or party considerations, we are really judges, but in form and in name we are the Committee of the Privy Council The Sovereign gives the judgment himself, and always acts upon the report which we make Our report is made public before it is sent up to the Sovereign in Council It is delivered here in a printed form It is a report as to what is proper to be done on the principles of justice, and it is acted on by the Sovereign in full Privy Council, so that you see, in substance, what takes place is a strictly judicial proceeding

That being so, the next question is what is the position of the Sovereign sitting in Council in giving formal effect to our advice, and what are our functions in advising him? The Judicial Committee of the Privy Council is not an English body in any exclusive

sense It is no more an English body than it is an Indian body, or a Canadian body, or a South African body, or, for the future, an Irish Free State body There sit among our numbers Privy Councillors who may be learned judges of Canada—there was one sitting with us last week—or from India, or we may have the Chief Justice, and very often have had others, from the other Dominions, Australia and South Africa I mention that for the purpose of bringing out the fact that the Judicial Committee of the Privy Council is not a body, strictly speaking, with any location The Sovereign is everywhere throughout the Empire in the contemplation of the law He may as well sit in Dublin, or at Ottawa, or in South Africa, or in Australia, or in India, as he may sit here, and it is only for convenience, and because the members of the Privy Council are conveniently here that we do sit here, but the Privy Councillors from the Dominions may be summoned to sit with us, and then we sit as an Imperial court which represents the Empire, and not any particular part of it

CHAPTER X

LOCAL GOVERNMENT

67 ADMINISTRATIVE AREAS OF LOCAL GOVERNMENT

THE main areas of English local government are administrative counties, county boroughs, municipal boroughs, urban districts, rural districts and parishes. Because of the peculiar problems associated with a large city, the county borough is independent of the other areas, having the powers of an administrative county and a borough combined. Within the administrative county are to be found municipal boroughs, urban and rural districts, and parishes, with local functions distributed among them by national statutes. There follows a list of the principal local government authorities in England

LOCAL GOVERNMENT AUTHORITIES ¹

<i>England and Wales</i>	
County Councils	62
Metropolitan Borough Councils (including the corporation of the City of London)	29
Receiver for Metropolitan Police	1
Town Councils	
County Boroughs	83
Municipal Boroughs	289
Urban District Councils	650
Rural District Councils	485

¹ *Municipal Year Book*, 1937, p. xxv

Parish Councils (Number parishes entitled to elect a parish Council	
—about)	7,200
Parish Meetings (Number parishes not entitled to elect Councils	
—about)	4,100
Scotland	
County Councils	33
Town Councils	195
District Councils	201
North Ireland	
County Councils	6
County Borough Councils	2
Borough Councils	2
Urban District Councils	30
Rural District Councils	32

68. TYPICAL LOCAL AUTHORITIES

The differences between the administrative counties, county boroughs, municipal boroughs, urban districts and rural districts may be seen by a comparison of the following local communities each of which has been selected as typical of its class. From the data presented, it is possible to note the nature of the activities, interests, and organization of the respective local authorities (Taken from the *Municipal Year Book*, 1937, pp 857, 918, 1110, 1295, 1367)

A A COUNTY BOROUGH

BARNSLEY (County Borough) Pop, 71,522 (Cen 1931), 71,200 (Est September, 1936), R V, £344,916, Debt, £3,786,229, Area, 6,032 Ac, Members of the Council—32

Barnsley is the centre of the South Yorkshire coalfield, and was also for many years one of the centres of the British linen trade. The Corporation owns the water and electricity supplies and maintains open markets, cattle market, abattoir and cold air store, baths (including a dance hall), public library, public hall, cemeteries, allotments, infectious diseases hospitals, sanatorium, tuberculosis dispensary, maternity home, parks and recreation grounds. As the Education Authority the Corporation controls a technical college, two secondary schools, an open-air school, six evening institutes, a junior instruction centre and twenty-five elementary schools. The Corporation has erected over 3,000 houses. The market rights of the

borough date back to 1249, when a Market Charter was granted by Henry II to the Monks of Pontefract. The local government history of the borough begins in 1822 when the first local Act was passed placing the town under a Board of 69 Improvement Commissioners. The Act of 1822 was followed by an Act of 1853 applying the Public Health Act, 1848, to and establishing a Local Board for the district. A Charter of Incorporation was granted on the 5th July, 1869. Barnsley is a municipal borough under the Municipal Corporations Acts and the sanitary authority under the Public Health Acts, was created a county borough in 1912, and was extended in 1921 by the inclusion of the urban districts of Ardsley, Monk Bretton and part of Worsborough. The borough maintains a separate police force and fire brigade, has a separate Commission of the Peace, and is part of the Honor of Pontefract as Coroner's District. A scheme for the centralisation of the sewage works has been completed, and new works on the bio-aeration system of activated sludge are now in operation. Barnsley is a Parliamentary Borough. New municipal offices and buildings, a new senior mixed school containing a swimming bath, a new mining and technical college, a new central clinic, a new children's home, and a new nurses' home have recently been erected.

B. A MUNICIPAL BOROUGH

DARTMOUTH Devon Pop, 6,700 (Est.), R V, £48,861, Debt, £45,000 (Excluding housing, £29,000), Area, 1,925 Ac, Rates (1934-35), 10/9, Members of the Council—16

The full title of the town which was originally constituted under a Charter of King Henry II is "the Borough of Clifton Dartmouth Hardness". The Town Council owns the water supply, which is derived from local sources. There is an annual income of about £1,500 from rentals of corporate property. Markets, slaughter-houses, fire brigade, pleasure grounds, concert and dancing hall, sea bathing pavilion and bathing pools, tennis courts, bowling green, short hole golf course of 18 holes for mashie and putter play, putting greens, sports ground, and cemeteries are also in the possession of the municipality. The construction of covered tennis courts and a saltwater swimming bath is under consideration. The Lower Ferry, crossing from Dartmouth to Kingswear at the narrowest part of the harbour, is owned by the Corporation and let on lease. A branch of

the Devon County Library has been established The Corporation has purchased an old Tudor house for preservation as an "ancient monument" and this is to be used for the purposes of a museum Gas and electricity supplies are in the hands of private undertakers. Electrical current is obtained in bulk from the Torquay Corporation An up-to-date maternity and child welfare centre and school clinic is to be established in the Borough The harbour is controlled by the Dartmouth and Totnes Port Sanitary Authority and the Dartmouth Harbour Commission The town is policed by the county constabulary The Town Council is the authority under the Weights and Measures and Food and Drugs Acts For Parliamentary purposes the borough is in the Torquay Division of Devon The Borough Area is within the South Devon Regional Planning Scheme There is a Superannuation Scheme

C AN ADMINISTRATIVE COUNTY

CORNWALL Pop 316,228 (Cen 1931), R V, £1,388,540, Area, 864,126 Ac, Members of the Council—95

The Administrative County of Cornwall, which does not include the Isles of Scilly, contains 12 municipal boroughs, 8 urban districts, 10 rural districts and 176 civil parishes There are 152 parishes with parish councils The county is divided into five assessment areas and five Guardians' Committee areas There are 17 county Petty Sessional divisions The borough of Penzance has its own police force and a separate Court of Quarter Sessions The boroughs of Bodmin, Falmouth, Helston, Launceston, Liskeard, Penryn, Penzance, St Ives and the city of Truro have separate Commissions of the Peace The councils of the boroughs of Falmouth and Penzance are separate Local Education Authorities for elementary education

The activities of the county council include —(1) The management and supervision of 3,848 miles of county roads, of which 406 are first-class, 376 second-class, and 3,066 unclassified, and 400 bridges (2) The administration of 21 secondary schools and 357 elementary schools Of the latter 267 are council schools and 90 non-provided schools Average number on registers of elementary schools is 30,770, and of secondary schools is 3,430 (3) The provision of small holdings, 11,965 acres There are 427 tenants (4) The maintenance and administration of a sanatorium at Tehidy

for the accommodation of 108 cases of tuberculosis and clinics at Penzance, St Austell, Truro and Tuckingmill for the treatment of tuberculosis (5) The supervision of midwives, the provision of hospital accommodation for maternity cases when necessary and matters concerning maternity and child welfare (6) The diagnosis and treatment of venereal diseases at a clinic situate at Tuckingmill and at the Plymouth city hospital (7) The care of the mentally defective (8) Arrangements for the welfare of the blind (9) The treatment of persons of unsound mind at the County Mental Hospital, Bodmin (10) The treatment of crippled children at 11 clinics and 4 hospitals (11) The undertaking of the Torpoint Ferry, between Torpoint and Devonport, over the Hamoaze (12) The administration of poor relief including 11 institutions and 12 children's homes The Council adopted the Local Government and other Officers' Superannuation Act, 1922, as from the 1st April, 1924

D AN URBAN DISTRICT

LITTLEHAMPTON West Sussex, 10,181 pop (Cen 1931), 12,597 (Est 1936), R V, £114,436, Area, 2,915 Ac, Rates (1936-37), 9/6, Members of the Council—15

The Council owns the water supply, cemetery, Carnegie library, museum, public offices, underground and other lavatories close to the sea front, concert pavilion, bandstand with shelters and dancing floor, esplanade with shelters, destructor, stables, car parks (one free), etc The Council owns the green adjoining the esplanade Housing Schemes under the Acts of 1919, 1923, 1924 and 1930 are in operation, and the Council has advanced money under Section 92 of the Housing Act, 1925 It also maintains a fire station, public pleasure grounds and a war memorial as well as the swing bridge and a ferry over the River Arun The Council is the Port Sanitary Authority Gas and electricity are supplied to the district by companies There is a superannuation scheme in force

E A RURAL DISTRICT

AMPTHILL Beds, 19,982 pop (Cen 1931), Area, 68,195 Ac, Number of Parishes, 29, Members of the Council—38

The district is mainly agricultural The villages of Woburn, Aspley Guise, Aspley Heath, and Flitwick are residential districts.

Water is supplied to twelve parishes by water schemes, and the remainder rely on private wells. Three parishes have sewage schemes and in 21 other parishes there are 16 miles of slop water sewers. In seven parishes the Council carries out scavenging work. The Council has provided 56 houses under the 1919 Act, 270 under the 1924 Act. The Council has provided an infectious diseases hospital in which cases of typhoid fever, scarlet fever, and diphtheria are treated. A comprehensive water scheme for the whole of the district has been approved by the Ministry of Health and the work is in hand, a number of villages receiving a supply under the scheme. Forty-one houses have been provided under the slum clearance programme.

69 THE COUNTY COUNCIL

In the administrative county, as in the other areas of local government, authority and responsibility are lodged in a locally elected council. The chairman, elected by the councillors and aldermen, has no special power other than to preside. The administrative work of the county is under the supervision of council committees, some of which are required by parliamentary statutes, while others are established by the council on its own authority. Selection A is a description of the London County Council, selection B is a list of statutory committees.

A THE LONDON COUNTY COUNCIL

(The Right Hon Herbert Morrison, "How the London County Council Does Its Work," *Public Administration*, XIV, 1936, 18, 23-24.)

The Chairman of the Council—now known by the gracious action of His Majesty this year as "The Right Hon the Chairman of the Council"—presides over its proceedings, the present chairman being Lord Snell. He is assisted by a vice-chairman drawn from the majority of the Council, and a deputy chairman, who is always drawn from the ranks of the minority or the opposition. Together they constitute the Dais. In addition to the Dais there are two other members of the Council who since 1934 are recognised

in the Standing Orders of the Council—it was not the new Council that recognised them in the Standing Orders, but as it happened, the Standing Orders had been revised some few months before the election—and those two members are designated, “the Leader of the Council” and “the Leader of the Opposition,” both of them being known officially in the Standing Orders of the Council .

The Standing Orders are so designed that all questions of principle, policy and finance are reserved to the Council itself by carefully framed Standing Orders, which make it impossible for Committees of the Council to do things within those categories of principle, policy and finance without the authority of the Council. The Committees have considerable delegated powers, but none of those delegated powers are powers which touch this very wide field of principle, policy and finance .

Our aim, as nearly as possible, is to keep the number of Committees down to the minimum without their powers becoming so huge that they cannot possibly properly manage them. In all public administration one must beware of the specialist mind which cannot believe that a job is being well done unless it has a committee to itself. It is wrong. It leads to a great waste of time on the part of members and officers. We try to keep Committees down to a reasonable minimum. Each Committee has a Chairman and Vice-Chairman, both of whom are drawn from the majority of the Council. The majority takes all the Chairs, including the scores of outside Committees, the Hospital Committees, Residential Schools Committees—we take the lot.

Procedure in Committee is rapid. Perhaps the late Sir John Gilbert illustrated this best when Chairman of the General Purposes Committee. If you were not in attendance sharp to time you would find in five minutes half the agenda gone, so you had to be there promptly. The Chairman calls 1, 2, 3, and “agreed” or “postponed,” and he goes right on unless somebody stops him. There is no harm in that. It is up to members to exercise their own rights.

B STATUTORY COMMITTEES

(H. Samuels, *The County Council What It Is and What It Does*, p. 7)

Name	Statute	Composition	Powers
Standing Joint Committee	s 30 of 1888 Act	Half appointed by C C, half by Quarter Sessions	Controls police expenditure
Finance Committee	s 80 of 1888 Act	Councillors only	Controls all C C expenditure
Pensions Committee	s 8 Old Age Pensions Act, 1908	Not less than 7 or more than number of Council women and non - councillors may be included	Full powers to decide claims
Visiting Committee	s 169 Lunacy Act, 1890	7, appointed annually	v page 16
Distress Committee	ss 2-4 Unemployed Workmen Act	Non - councillors may be co opted	v page 21
Education Committee	s 4 Education Act, 1921	Scheme to be approved by Bd of Education women and specialists to be included	May have any powers delegated to them except raising a rate or loan.
Committee for the care of Mental Defectives	s 28 Mental Deficiency Act, 1913	Must include some women and some experts	do
Agricultural Committee	s 7 Ministry of Agriculture Act, 1919	Majority to be Councillors women and nominees of Ministry of Agriculture to be included	do
Diseases of Animals Committee	s 31 D of Animals Act, 1894	May include rated occupiers	do
Small Holdings and Allotments Committee	s 50 Small Holdings Act, 1908	Must include representatives of tenants	do
Hospital Committee	s 10 Isolation Hospitals Act, 1893	May consist partly or wholly of representatives of hospital district	do.
Public Health and Housing Committee	s 71 Housing Act, 1909	Only Councillors	do
Maternity and Child Welfare	s, 2 Maternity and Child Welfare	2 women at least one third may	do

70 THE ALDERMEN

A characteristic feature of council organization in the counties and boroughs is the institution of aldermen. These men may be selected either from the list of council members or from outside, but if councillors are designated as aldermen, the vacancies created in the council must be filled by special election. The aldermen sit with the council, with the same voting rights and general status as those possessed by councillors, the special privilege of their office resting in the fact that they have a double term of six years. Critics generally feel that the aldermen add substantially to the quality of local councils. The following extract, written by a councillor, is a description of the practice of selecting aldermen in the London County Council (The Right Hon. Herbert Morrison, "How the London County Council Does Its Work," *Public Administration*, XIV, 1936, 20-21.)¹

With regard to Aldermen, I should say this—it is the practice of many local authorities to promote a Councillor into an Alderman.

The Aldermen of the London County Council are only a sixth of the whole Council, and if the Aldermanic institution is of any value whatever, its value is in improving the ability and quality of the Council as a whole. It is no good trying to divorce Aldermen from party considerations in the London County Council, because party runs through the whole administration. The majority [party in the Council] does not take the lot [elect all of the Aldermen], but it only takes its share or proportion of elected Councillors, except at times when the balance of the elected Councillors is so tight that the machinery will not work unless the majority takes the lot [all of the Aldermen]. In 1910, when Conservatives with a majority of two offered the Progressives a coalition arrangement and a sharing of the [Aldermanic] chairs, the opposition rejected the offer, and the Conservatives said, quite rightly, "In those circumstances we must take all the Aldermanic seats in order that we may have a clear working majority on the Council." But what I have advised my friends they should aim at in electing Aldermen is to improve

¹ Reprinted by permission of *Public Administration*, London.

the quality of the Council They should say, "What are we short in, are we weak in finance, in public health, are we weak on housing, do we want a lawyer or two?" So what we try to do is to look around and see what we are short of, irrespective of whether the Aldermanic nominees stood for election and were defeated, or whether they have been on the Council before We try to settle it on the basis of electing someone who is able, competent and has time In my view that is the only proper way to look at the Aldermanic institution, and that is the way we have tried to do it

71 MUNICIPAL TRADING

"Municipal trading" is the English term for municipal ownership and operation of public utilities The extent of such public ownership is much greater in England than in the United States In addition to the usual public utilities such as gas, water, and electricity, many English cities own and operate public markets, transportation systems, slaughter houses and, in the case of Birmingham, a municipal bank The following account indicates the extent of municipal trading and also something of the success which has accompanied such enterprises (*Local Government Speaker's Handbook*, 1937 edition, pp 43-48)

Extent of Municipal Trading—The local authorities of Great Britain, including some public boards, are responsible for about—

Four-fifths of water supply.
Four-fifths of all tramways
Three-fifths of all electricity supply
One-third of all gas supply

In all the public utility undertakings operated by local authorities in 1930, there was, according to the Census of Production, a total output of £140,000,000, and the average number of persons employed was 332,000

General Results—In examining the financial results of municipal trading, several points must be borne in mind

(a) Certain services often described as trading services, such as water supply and cemeteries, are primarily health services, which must be provided, whether profitable in the ordinary sense or not, at low prices

(b) The primary aim of municipal trading is not profit making, but service to the community at a price as near cost as possible. It would be easy for municipal undertakings to show very large profits, if they kept up prices for the purpose. The normal practice, however, is that savings and reductions in costs are passed on to the consumers in the form of lower prices, although in some cases profits are used to relieve the local rates.

(c) Unlike private companies, local authority undertakings deliberately pay off, out of revenue, a large proportion of the capital they have raised. Examples are given below.

(d) Municipal trading undertakings, such as trams and buses, docks and harbours, etc., often deliberately maintain unremunerative services for the convenience of the community, and certainly to a far greater extent than do comparable company undertakings.

(e) Comparable municipal prices are lower than those of company undertakings.

Electricity—In Great Britain, at March 31, 1935, there were 421 generating stations belonging to authorised undertakings—public authorities 227 and companies 194. In 1934-35, public authority undertakings generated 8,735·1 million units (56 per cent) and companies 6,852 million (44 per cent). At March 31, 1935, the public authorities had 4,858,439 consumers connected (70·4 per cent) and the companies 2,042,676 (29·6 per cent).

Gas Supply—In Great Britain, in 1935, there were 716 authorised gas undertakings, of which 308 were municipal and 408 companies. Municipal undertakings were responsible for 35 per cent of the total sales, excluding one London company, the sales of municipal undertakings are 42 per cent of the total.

Tramways—In 1935-36 there were 98 tramway undertakings in Great Britain, 78 owned by local authorities and 20 by companies. By the end of 1935-36, municipal undertakings had borrowed £63,000,000 capital, of which £43,700,000 had been repaid (or placed in sinking funds) out of profits. The total paid-up capital of companies was £9,200,000, of which £160,000 had been redeemed.

Markets—Municipal markets are of two general types: markets, sometimes with slaughter-houses, for the sale of cattle and meat, and markets for the sale of meat and other commodities. The chief advantages are public convenience, cleanliness, and the protection of the consumer from unsound food. The markets also are usually a source of profit to the local authorities.

Water Supply—Although water supply is primarily a public health service, often deliberately subsidised, as in rural areas, many

of the local authority undertakings make substantial profits. The following are some examples

	NET SURPLUS 1935-1936 £		NET SURPLUS 1935-1936 £
Birmingham	56,065	Kilmarnock	3,238
Derby . .	15,941	Liverpool	32,876
Edinburgh	26,681	Manchester	22,063
Fylde	19,370	Plymouth	6,696
Hull	19,748	Port Glasgow	1,097

Municipal Banking—The only municipal bank proper is that of Birmingham, but Cardiff and Birkenhead have been given power (not exercised, however) to set up one by the Cardiff Corporation Act, 1930, and the Birkenhead Corporation Act, 1930. It is understood that municipal banks were established in Walthamstow and Thornaby-on-Tees in 1934, and another was inaugurated in Barnsley in November, 1935. These banks, and others in existence at Clydebank, Comnock, Kilsyth, Kirkintilloch and elsewhere in Scotland, are formed by individual members of the local council forming themselves into private limited companies.

Birmingham Municipal Bank—The Birmingham Municipal Bank was started in 1920. At March 31, 1936, it had 59 branches, £21,000,000 deposits, and 410,900 depositors.

Deposits from 1d to £500 may be made during any bank year, there is no limit to the total amount in any account, interest is 3 per cent, up to £30 may be withdrawn on demand, and larger amounts on notice, money is advanced for house purchase up to 90 per cent of valuation, for a period up to twenty-five years, with free mortgage deed and nominal valuation fee of 10s, advances are made for purchase of allotments, over ten years, with free mortgage deed and nominal valuation fee of 10s. Water, dust-bin hire, electricity, gas and rate accounts can be paid at any office of the bank, there is a school savings bank scheme, and safe-deposits are available at low rentals.

72 CENTRAL CONTROL OVER LOCAL GOVERNMENT

While the local areas enjoy a large degree of autonomy within the field of their interests, they have come more and

more under the supervision and control of the national authorities, as the extension of social services has increased the need for uniformity. There are several methods commonly employed by the national government for establishing supervision

- 1 The issuance of rules or regulations in application of statutes

- 2 Advice given by special advisory organizations of the central government

- 3 Provisional or special orders issued by departments under the authority of Parliament

- 4 The enactment of statutes in the form of private legislation.

- 5 The prescription of the qualifications of local officers

- 6 The authorization of local loans by the Ministry of Health

- 7 The audit of local accounts by national authority

- 8 The power of inspection, coupled with grants of money to the local areas conditioned on the fulfillment of stated obligations

Generally these methods stress administrative rather than legislative action on the part of the national government. Two of the most significant and powerful forms of central control are treated below. The first selection is a provision taken from the Education Act of 1921, bestowing on the Board of Education inspectorial powers in connection with grants of money to local authorities for educational purposes. The supervisory power of the central government over local loans is taken up in the second selection.

A PROVISION OF THE EDUCATION ACT (1921)

(Grants in Aid, With Inspection [11 and 12 Geo V, c 51])

The Board of Education shall, subject to the provisions of this Act, by regulations provide for the payment to local authorities out of moneys provided by Parliament of annual substantive grants in

aid of education of such amount and subject to such conditions and limitations as may be prescribed in the regulations, and nothing in this Act of Parliament shall prevent the Board from paying grants to an authority in respect of any expenditure which the Authority may lawfully incur

The grant is conditioned upon the Board being satisfied that the Authority

- (1) have performed their duties under the Act,
- (2) have complied with the requirements, so far as applicable, of the Regulations of the Board relating to elementary education, including these regulations, and
- (3) have supplied punctually such information and returns as the Board require

If the Board are not satisfied on any of these matters they may withhold or make a deduction from the grant

B CENTRAL CONTROL OVER LOCAL BORROWING

(J Mitchell, "Financing of Capital Expenditure of Local Authorities," *Public Administration*, XIII, 1935, 157-58)¹

Unless a local authority has the direct authority of Parliament, e.g., under a local Act, to borrow money for a specified purpose, the sanction of a central government department is a condition precedent to the raising of loans. The Principal sanctioning authority is the Minister of Health who deals with practically all loans of local authorities except those relating to electricity and transport undertakings.

In applying for sanction to borrow the local authority is required to submit plans, estimates and full details of the proposal, and the Minister may hold a local inquiry at which ratepayers may attend and object to the proposal.

Where sanction is ultimately granted the Minister does not usually prescribe the method of raising or repaying the loan, but he does prescribe (having regard to the maximum periods allowed by law and the nature of the asset to be set up) the period in which the loan is to be repaid, and the local authority must provide for the complete repayment of the particular borrowing within that period.

The local authority is at liberty to provide for repayment within

¹ Reprinted by permission *Public Administration*, London

a shorter period, but on no account must the period prescribed by the sanctioning authority be exceeded. There is no right of appeal to the Minister's refusal to grant a borrowing power.

The maximum loan period prescribed by the Local Government Act, 1933, is sixty years . . .

When direct borrowing powers are sought by means of a local Act, the proposals are subject to close scrutiny by the appropriate Government Departments and a Committee of the Houses of Parliament.

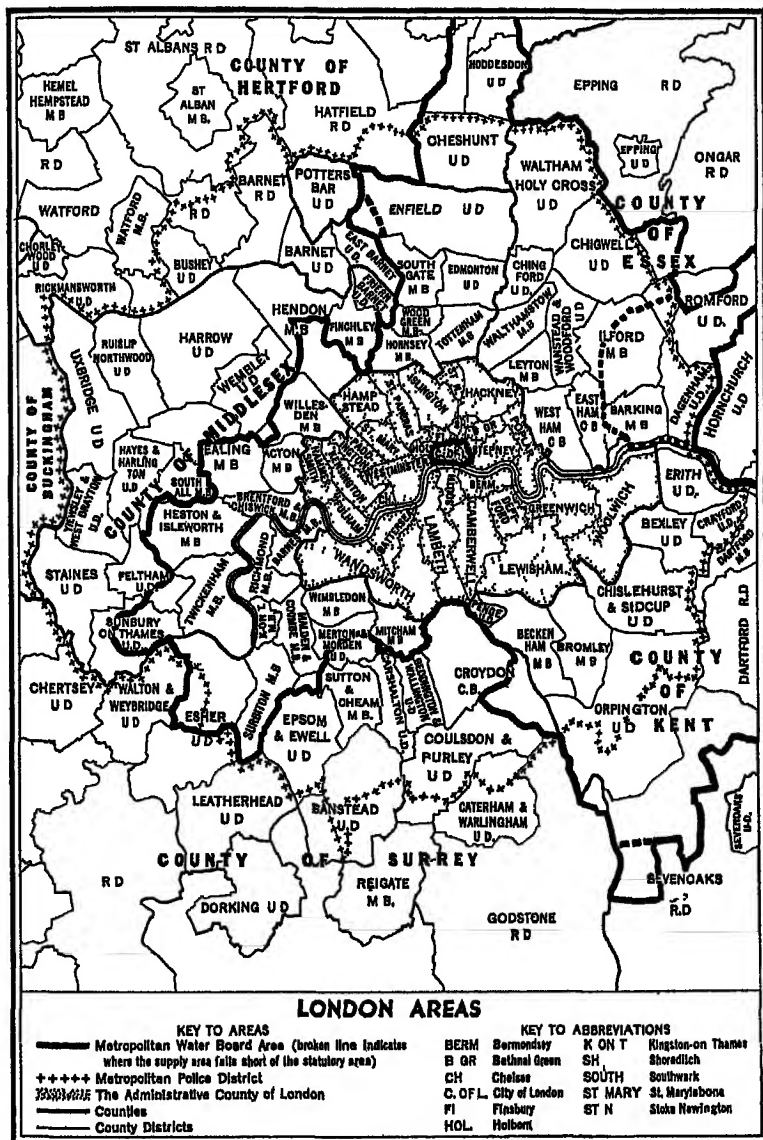
It will be realised, therefore, that although the loans sanctioned each year assume such large proportions the local authority must convince the central authority that the proposed expenditure is in the general interests of the ratepayers, etc., that it is not excessive, and that it is within the ability of the authority to pay.

A local authority may borrow temporarily, by way of loan or bank overdraft, to meet authorised loan expenditure pending the raising of a loan. Further, borrowings may be incurred, without the consent of any sanctioning authority, for the purpose of paying off any moneys previously borrowed which are intended to be repaid forthwith or replacing moneys which have been temporarily applied from other moneys of the local authority.

73 LONDON

Metropolitan London has a population of approximately eight and one-half million people. It is still a growing city, having added nearly a million to its population since the World War. Naturally such a congested community presents problems incapable of solution within the range of the forms and powers which are associated with other British cities. Consequently a very complicated governmental structure has developed for the City of London. At the center is the old city with about 12,000 population, a corporation of "freemen and liverymen." In 1888 the administrative county of London was created around the many separate jurisdictions which had grown up outside the old city. The Government of London Act (1899) further simplified the arrangement by substituting twenty-eight metropolitan boroughs for the various parish and

A THE ADMINISTRATIVE AREAS OF LONDON



other jurisdictions within the administrative county Metropolitan London, an area considerably larger than the administrative county, exists mainly for police purposes. It includes all of Middlesex county and parts of Surrey, Kent, Essex, and Hertfordshire. Other "Londons" exist for special purposes, as passenger transport, traffic, and electricity.

B LONDON AND ITS GOVERNMENT

(Elmer Davis, "England's Weak Spot," *Harper's Magazine*, March, 1937, pp. 385-92) ¹

London can still make a plausible claim to be regarded as the world's first city—and beyond all others an imperial city. In numbers and wealth indeed the New York metropolitan area—including the cities just across the river in Jersey—has gone beyond anything that could be regarded as the London metropolitan area, and the New York skyline may seem a visible token that here is the City of the Future. But that skyline is also a souvenir of the painful past, too many of those soaring towers rise from a foundation of defaulted bonds and deflated bondholders. Moreover, the capital of the United States is split into two parts—perhaps even three, for in some ways Chicago is our chief city, of late years the part that is in Washington has become predominant—to the good of the country certainly, but it has meant the reduction of New York to an almost provincial status.

But London is still the one and only capital of Britain, in most respects the capital of the British Commonwealth even though it has lost, for the Dominions, much of its political importance, and more than any other city in the world it looks a capital. London is easier to see than it used to be thanks to the increasing prevalence of electric heating, and the consequent diminution of smoke and fog, and that tremendous accumulation of public buildings, encrusted with the soot and the tradition of centuries, produces an impression of solidly built-in power and dignity such as not even Paris can approach, to say nothing of parvenu Berlin and decaying Vienna. And besides the public buildings the countless semi-public buildings such as India House, Rhodesia House, Australia House, the private structures on which you read names that have been part

¹ Reprinted by permission of *Harper's Magazine*, New York

of world economic history for centuries—no other city can begin to offer such a show as that. A visitor whose acquaintance with London had virtually ceased in 1912 found it last winter far less changed than might have been expected, aside from the greater visibility. . . .

Not that London is a city of the past, just now it seems brisker and busier than New York or Chicago (and, on the whole, rather more expensive). London is prosperous and does not care who knows it, there are unemployed, but less than half as many in proportion to the population as in the country at large, and they are kept decently out of sight. The ubiquitous beggars who in the days of England's greatest splendor defaced the streets of the imperial capital have all but disappeared, the dole takes care of them now, however inadequately. . . .

For London, which has long been port and capital and financial center, has now become England's great manufacturing city, producing more and more of the nation's industrial output—a sixth in 1924, well over a fifth in 1930, almost certainly a full quarter now. . . .

People are beginning to say that the London streets already have as many buses, perhaps as many private cars, as they can hold. It must be said that there are only a few districts in which traffic flows as viscously as in midtown New York, London does not yet know what real congestion is.

Other things London does much better. Sewage disposal, for instance, where New York blandly dumps its waste into its rivers, polluting them so that no fish can live there, and used to throw its garbage overboard just outside the harbor mouth to befoul bathing beaches for fifty miles around, London burns its garbage, treats its sewage chemically, and dumps nothing at sea but sludge and ashes, far enough out to be sure they will sink. London municipal authorities are much dissatisfied with their sewage system and think they ought to be able to improve it, but to the New Yorker it is already an occasion for wistful envy.

And so is the London municipal government, which gives one more demonstration of the British ability to make antiquated machinery function extremely well. The old City of London of course includes little more than the financial district now, as if the City of New York were Manhattan Island south of Fulton Street. Outside that city grew up villages and boroughs and at least one other

city, Westminster, but not till 1855 was any central authority created, and the London County Council, which is the nearest approach to what Americans would call the municipal government, was not established till 1888. Even then London had already overflowed the boundaries of "County London", which now occupies toward the rest of the metropolitan area something of the position of Manhattan in New York. Its population has been declining for thirty years, it is probably now not much more than four million, while "Outer London"—in every respect but administration part of the metropolis—has close to five million.

Even in the one hundred seventeen square miles of the administrative county the County Council is not the sole municipal authority, the police are under the Home Office of the national government, and a good deal of local administration—including that conspicuously delicate task, the assessment and collection of local taxes—is left to the twenty-eight Borough Councils plus the City of London Corporation. Beyond the county border is more than half the population and five-sixths of the area of London, and there again are local borough councils, groups of them co-ordinated after a fashion in the Middlesex, Essex, etc. county councils, with which the London County Council has to negotiate as with foreign powers, not to speak of the Transport Board and Water Board and other agencies covering the whole district. Not even Chicago has such a complex tangle of governments, but the efficiency and honesty with which it is administered would be unthinkable in Chicago, or indeed almost any other city in the United States.

One hears tales of local small-scale graft in some of the Borough Councils, but the County Council seems to be above any suspicion. Yet it consists of one hundred and forty-four members, elected on party tickets, and unpaid, it has a Labor majority just now, and a good many of its members are obviously self-educated workingmen—but men who are not only incorruptible but who know their job. A meeting of the London County Council is as different from a meeting of the New York Board of Aldermen as Hyperion from a satyr, more like a meeting of the City Club, or a conference of municipal experts at the Russell Sage Foundation. We also can produce that serious and incorruptible competence, but we very seldom let it have anything to do with the government of our cities. It may advise, it may on occasion be called in as expert assistance to straighten out a tangle, but it does not rule.

As for Lord Snell, chairman of the County Council, who comes nearer than anybody to being what we should call the Mayor of London, he was a farm hand and the son of a farm hand, who worked his way up at any job he could get through London and Heidelberg Universities, and so on into the House of Lords. Such a rags-to-riches success story would be a priceless asset to any American mayor, but so far as I could find out it had nothing to do with Lord Snell's elevation to his present office, he was put there because it was believed that he was the best man for the job.

74 AN ENGLISH CRITICISM OF LOCAL GOVERNMENT

There are many Englishmen who feel that their institutions of local government are definitely inadequate to the burdens placed upon them by twentieth century conditions. Criticisms relate to many phases of the system, including personnel, areas, and the relations with the national government at London. The following article, written by an English observer, indicates the nature of these criticisms. The author enumerates four of them (C Williams-Ellis, "Corruption in Local Government," *Nineteenth Century*, CXIX, February, 1936, 183-84) ¹

(1) The general incompetence and unsuitability for their work of the unpaid elected representatives (i.e., members of local councils) of the ratepayers who are responsible for local government administration. Of these representatives neither business knowledge and experience nor knowledge of local government administration is demanded. Comparatively few possess either to more than a superficial degree, and a growing proportion seek election solely for the advantages councillorship is expected to bring them in improved credit, more business, and the satisfaction of "seeing their names in the papers." Many of them are not capable of making a success of a tobacco kiosk, yet they are permitted to control the spending of anything up to £10,000,000 a year by a single authority.

(2) The incompetence for their responsibilities of a considerable proportion of paid municipal officers. These officers—generally, if not always, hard-working, well-meaning, ambitious and (within well-defined limits) capable servants—are, in all but a few instances,

¹ Reprinted by permission of the *Nineteenth Century*, London

helpless in the hands of the unpaid elected representatives. They have, in any case, seldom any equipment of education or experience to fit them to make the local government of their county, borough, district, or even their department, the business concern it ought to be made. The principal officers (town clerks and clerks to councils) are almost invariably solicitors, and solicitors are excellent business men as between solicitors and client, but have, as a rule, about as much practical business knowledge (other than legal) as the average nun. Municipal engineers, surveyors and architects are not—as they ought to be—the best men who can be had for the money, drawn from the ranks of the best-qualified engineers and surveyors and architects in the country, but are for the most part men with no wide and general experience, who have been “trained” in the stultifying atmosphere of local government under men who had no real training or experience at all. Municipal engineers are generally the council architects, though they have had no architectural training whatsoever, and never had and never will have, any sense of beauty or design. So the tale goes on.

(3) The inability of the Ministry of Health to fulfil the multifarious duties it has usurped or had thrust upon it. For this inability the Ministry has every excuse. It has grown so fast and so big that it has become a body whose members lack co-ordination, and would, even if they could achieve co-ordination, lack the strength for sustained co-ordinated effort.

(4) The unsuitability of the existing partition of the country for local government purposes, and the unsuitability of existing local government machinery for the ever-increasing productive effort and constructive work that are demanded of it. The anomalies and absurdities of this partition are too familiar to need much more than a passing reference, but a few examples may be cited. The Borough of Cowbridge has a population of 1,027, the County Borough of Birmingham has a population of 1,125,000. Cowbridge has a revenue of £5,250, Birmingham a revenue of £6,719,270 and a debt of £52,765,741. Of the metropolitan boroughs, Wandsworth has a population of 353,110, Stoke Newington a population of 51,208. Merseyside is an industrial entity with a population of 1,500,000, it is governed by a multiplicity of local authorities with antagonistic and (frequently) bellicose attitudes to each other. The same thing is true of most large industrial areas where there should be a common government pursuing a common purpose.

CHAPTER XI

POLITICAL AND SOCIAL PROBLEMS

75 THE CONSTITUTION AND SOCIAL-ECONOMIC CHANGE

CHANGING social and economic forces have increasingly affected the daily life of the masses of people. The early industrialization of England forced the government to face certain resulting problems many years ago. A long list of laws has been placed on the statute books to protect the individual against the effects of alterations in the economic system over which he had no control and to enlarge his opportunities for security and advancement. Although some of these laws were passed decades ago, the movement for social legislation has been accelerated under the pressure of twentieth-century conditions. The following excerpt describes this movement in some of its larger aspects (W G S Adams, "Whither England," *The Southern Review*, III, 1937-1938, 18-19) ¹

Much the greatest thing that has happened in the United Kingdom in the twentieth century has been the development of the new social and economic policy. True, its roots go far back and deep down in English life, but the years 1906 to 1912 will stand out in English history as a great period of national effort to realize a community way of life leading towards social justice. Elements in

¹ Reprinted by permission of the author and of *The Southern Review*, University of Louisiana Press

this new policy were many but were related to one another by the underlying common purpose. It was a period in which, based on the Act of 1902, a much wider national view of the function of education and of the use of the school as an instrument of social control began to be realized. Not only better provision for elementary and secondary education, but the linking of the educational services with, on the one hand, public health, and, on the other hand, with the agencies seeking to foster employment and to provide for aftercare, marked the coming of a fuller vision of what education should be. Nor was this confined to school years. For in this period a great advance was made in laying the foundations of a wider system of adult education, particularly in the study of those civic subjects on which depends the growth of an independent and responsible democracy.

A second element in the new social-economic policy was the development of the public health services—not only through the growth of medical inspection in the schools and the provision of school meals in necessitous cases, but above all in the great National Health Insurance Act of 1911, and in the increased State provision for medical research. With this policy was joined also a much wider vision of the problem of housing and its social significance, and of the need for town and country planning. More and more the legislature was coming to be concerned with the building up of a better community life and, above all, with the provision of greater social security.

This was still more emphasized in a third element in the policy of this creative period. The provision for the first time of a national system of old age pensions which gave some measure, at least, of security against the misfortunes of old age, the establishment of trade boards to control wages and conditions in the less organized industries, the creation of a network of employment exchanges which sought to help the man who was out of work and to put him in touch with new employment, and, finally, in 1911, the beginnings of the system of insurance against unemployment—these and other measures combined to awaken in the nation the consciousness of how the State could build up a sense of social security within the framework of the existing economic system. The value of this policy was realized in wartime, and even during that period continued to expand on the basis of the foundations laid in the period from 1906 to 1912. Measures were directed towards securing

industrial peace by councils of conciliation, while a new vision of community planning and the need for a better life in town and country became more and more widely realized. In the period following the War, despite strife and setbacks, the movement of the social services has continued. The policy of social security has been developed in many directions—by State provision for widows and orphans, by the extension of unemployment insurance to all industries, including agriculture, and by a more humane system of public assistance, while the varied range of social effort in other directions is illustrated by provision for rehousing on a scale unprecedented in history, resulting in the building of over three million houses in the years since the War, the preservation of the amenities of the countryside, and provision for recreation and the better use of leisure. All these and like elements have combined to make the post-War period one which has creatively extended the policy of the 1906 to 1912 period.

How great this silent revolution has been can be told in the language of finance. In 1901 the State expenditure on the Public Social Services in England and Wales was thirty-one million and in 1934 it was 426 million pounds.

76 SOCIAL SECURITY

The extract below analyzes Britain's expenditures for the protection of her people against unemployment, illness, and other misfortunes. Great Britain was one of the pioneer nations in this field. Although the movement was begun in a modest way many years ago, most of the social legislation now in force has been enacted during the past thirty years. Prewar Liberal Governments, supported by a small but important Labour group in parliament sponsored much of it, and the Conservative administrations have added to the earlier measures. (Sir Gwilym Gibbon, "The Public Social Services," *Journal of the Royal Statistical Society*, Part IV, 1937, pp. 495-510.)¹

¹ Reprinted by permission of the *Journal of the Royal Statistical Society*, London.

The last official return of the "public social services" showed that in the year 1900-1901 less than £32m was spent in England and Wales on the services included in the return, in 1910-11 £55m., in 1934-35 £427m. These are amazing figures, even in these expensive days.

The new era of public provision for personal needs began with old age pensions in 1908, and was continued by assisted health and unemployment insurance, the former on a comprehensive, and the latter at first on a modest, scale. The new era was manifested also in other directions, in particular in the work of Local Authorities.

A better indication of the increased scope of the public social services is afforded by the expenditures per head of population, which in round figures are as follows —

1890 91	1900 1901	1910 11	1924 25	1934 35
Under 15s	Just under 20s	Over 30s	Over 150s	Over 210s

In the later years account has to be taken of the changed value of money.

Taking now what I call the maintenance social services of unemployment insurance and allowances, health insurance, contributory pensions, old age pensions, public assistance and assisted housing (but omitting the general hospitals of Local Authorities, school medical treatment, the feeding of school children and maternal aid given in connection with maternity and child welfare because separate figures are not stated in the official return, the figures for most of them will be given later in this paper), the figures are as follows, the first stating the total expenditure, the second that per head of population —

1890 91	1900 1901	1910 11	1924 25	1934 35
£9m 6s	£12m Under 7s 6d	£22m Over 12s	£148m Over 76s	£277m Over 137s

The increases are larger than for the social services as a whole, and indicate the bigger place now held by maintenance services in the realm of government.

The relative expenditures on the several services repay attention. Thus, that on education is nearly three times that on health insurance and more than twice that on housing, this is for gross expenditures, the disparities in those out of public funds would be much

greater Expenditures on the several services are now determined largely by sectional pressures, and there is a case for more systematic means for settling claims from the standpoint of the community as a whole. The expenditure on each service depends upon public policy, though that on unemployment must depend largely (but by no means wholly) on economic conditions, and that on old age pensions must increase with the number of the aged

SERVICES		GROSS EXPENDITURE, £M	
Maintenance	General	Maintenance	General
Unemployment Benefit Unemployment Allowances Public Assistance Housing Contributory Pensions Old Age Pensions .. National Health Insurance	Education		
	Approved Schools		91.9 0.5
		46.5	
		38.2	
		42.6	
		40.2	
		38.5	
		37.8	
		32.8	
	Hospitals and Treatment		12.4
	Maternity and Child Welfare . . .		3.1
	Mental Treatment		2.8
	Mental Deficiency		2.5
	Totals	276.6	113.2
	Grand Total . . .	389.8	

Not more than a broad comparison is necessary for my present purpose. From estimates which have been made, I shall assume that the average national income per head was £47 in 1910-11, £79 in 1924-25 and £83 in 1934-35. On these figures the percentages of the national income spent on the public social services from public funds were respectively just over 3, about 7½, just over 9. The last figure can scarcely be said to be exorbitant.

Until the present century the principal public stand-by of the needy without employment was the poor law. In practice, the help of relatives and friends and private philanthropy was more important, in addition to the assistance afforded by the Trade Unions. In times of heavy unemployment much was done in the aggregate in finding (or making) work. The Unemployed Workmen Act of 1905 was significant—not for what it achieved, that was almost ridiculous—but for what it portended as an attempt to deal with the unemployed as a special problem, though in that case as a joint venture with private philanthropy.

National Labour (now Employment) Exchanges were established in 1909, and in 1911 compulsory unemployment insurance was introduced, for a few selected industries with some 2¼m workers and with a benefit rate of 7s a week, limited to 1 week for every 5 contributions and a maximum of 15 weeks in a year, and with concessions to employers for regularly employed workers and to the insured, at age 60, for large credits in contributions. The scheme was extended during the war, prospered with the flush of work, and at its close had the comforting surplus of £15m. It gained, too, by the "out-of-work donations," of over £60m, made by the State to ease the transition from war to peace. And after the war, nearly everybody bubbling with confidence, benefits were increased and insurance extended to nearly all manual workers, except those in agriculture and domestic service, and to other employed persons earning not more than £250 a year. In 1921 the number insured in Great Britain was just over 11m, as against a little over 15m in health insurance.

From November 1920 to March 1936, nearly £1,000m was paid out in unemployment benefit and in uninsured payments to the unemployed under various designations, the last being unemployment allowances—designations which would serve as a better peg than most for a treatise on the gradual approach to reality! In the two years of highest expenditure, 1931-33, £215m was paid out, and the unemployment fund accumulated a deficit of £115m, reduced to just under £106m when, from July 1934, the debt was funded and arrangements were made for its gradual repayment.

Nor is this all. Account must be taken of several other expenditures from public funds to help the unemployed—works put in hand by Local Authorities and others, with State aid, to relieve unemployment, poor relief, concessions, from State funds, to keep

the unemployed within health insurance and contributory pensions, exceptional measures for the Special Areas, and others, such as transference and training. The total would be a stupendous figure.

It is not an exhilarating story—rather like that of a lion caught in a trap and licking his wounds in the meantime—but no country has done better in so grave an emergency and, considering some of the ways of salvation pressed on governments, there is more cause for gratitude than for censure.

77 HOUSING

There are several reasons why the housing problem has been most perplexing to the British government for many years. First, slum clearance in the cities became urgent as an important aspect of the health and social welfare projects on which the government had embarked. The drift of large numbers of people into urban centers, often from the distressed areas, placed a strain upon available housing facilities. Then the number of families in England has tended to increase, although the average size of families has decreased. The problem has been further aggravated by an increasing population. In view of the adverse living conditions brought about by these and other developments, the government was obliged to go into the housing business. Since 1930 the government has spent in the neighborhood of £300,000,000 for this purpose. In 1935 the expenditure was approximately £40,000,000. The policies and methods of the housing program are outlined below (R. L. Reiss, "British and American Housing," *Social Service Review*, XI, 1937, 202-6) ¹

There has been a large amount of housing legislation in Great Britain since the war. But the main housing acts have been the Housing Acts of 1919, 1923, 1924, 1925 (which consolidated earlier legislation but did not introduce new laws), 1930, 1935, and 1936 (which consolidated earlier laws). The existing legislation can therefore be found mainly in the Consolidated Act of 1936.

¹ Reprinted by permission of the *Social Service Review* and the University of Chicago Press, Chicago.

The principal statutory powers and duties of the local authorities under the foregoing legislation may be divided under the following heads

a) To buy land and erect new housing accommodation to meet the shortage of housing as reflected in overcrowding

b) To clear slum areas by either acquiring them, cleaning and rebuilding, or, if the site is not suitable for rehousing, serving notices on the owners to clear them

c) To deal with individual unfit houses and private owners, by either issuing "closing or demolition orders," or by requiring the owners to repair and improve them

d) To assist private enterprise in various forms by making loans for either the erection of new accommodation or to reconstruct existing accommodation

As already explained, even in the years before the war, private enterprise had never been able to provide decent new homes to let at rents that the lower-income groups could afford to pay, still less could private enterprise provide decent new accommodation for those displaced from slum clearances. If, therefore, the large number of people in these classes, who were living either in slums or under overcrowded conditions, were to obtain decent new homes, it was essential that the local authorities should provide them. In order that the rents should be low enough and at the same time that the local authorities carrying out housing projects should not be burdened with an undue financial loss, national subsidies were necessary.

It was therefore provided in the housing legislation

a) that the local authorities should have a statutory duty to carry out the powers mentioned above with a view to dealing adequately with the housing problem in their area and

b) as this would involve them in a considerable loss, parliament provided money to enable the national government department to grant annual subsidies to the local authorities proportionate to the number of new houses they built, so that the burden falling upon the local authorities should be relatively small.

It should be added that legislation also empowered the local authorities to raise loans or issue bonds to meet the capital cost of their housing projects. As experience was gained, and as national economic conditions changed, Parliament found it necessary to amend the housing legislation from time to time.

Broadly speaking, the history of the administration of these Housing Acts may be stated thus

1 During the period from 1919 up to 1931 the local authorities were mainly concerning themselves with building additional houses to meet the shortage and with serving notices on owners to repair existing buildings. Only to a limited extent did the Councils find it possible to clear slum areas during this period.

2 From 1931 to 1937 the authorities have been mainly concerned with clearing slum areas and rehousing the population displaced, and only to a limited extent building additional houses. They have, however, continued to deal with individual unfit houses.

The great majority of the million and a quarter family-dwelling units that have been provided by the public housing authorities and limited dividend corporations consist of self-contained, two storied, single-family houses, built in pairs or rows of four, six, or eight. Most of them were designed to meet the needs of the normal family of father, mother, and children. Therefore, the greatest proportion of them contain a living-room, kitchen, storage for food and fuel on the first floor, and three bedrooms and a bathroom, including toilet, on the second floor.

The average cost of the normal-sized house built by public housing authorities was about \$1,800 from 1923 to 1931. In recent years it has come down to \$1,500.

The rents of the new houses and apartments built by the public housing authorities vary from town to town and even vary in the same town, according to the locality and also the particular section of people that are being housed, the rent per room being lower where the slum dwellers are rehoused than where the houses have been built to meet the shortage. The following figures must therefore be taken as approximate only and representing a general average: in the Greater London area from \$2 50 to \$3 50 per room per month, other large towns from \$2 00 to \$3 00 per room per month, the smaller towns from \$1 50 to \$2 50, the villages from \$1 00 to \$2 00.

78 THE TREND OF POPULATION

Vital statistics reveal the fact that significant changes are occurring in the social structure of England and Wales. To

date there has been no decrease in England's total population, in fact, there is still a small annual increase. But families are smaller than formerly and the birth rate has been declining so rapidly that a period of decreasing population is expected to begin within a few years. While no one can say how long it will last or how serious it may become in the future, there is no denying the fact that this population trend is already a matter of serious concern to British authorities. The effects may reach far into England's future economic life. Certainly the problem of national defense is complicated by the prospect of declining man power. The following extract discusses the implications of these population trends in England and Wales. (Sir Leo Chiozza Money, "Renew or Die!" *Nineteenth Century*, CXXIII, 1938, 129-31) ¹

Progress continues to be made in disposing of the fallacies on the population question, so rife until a few years ago. It is difficult now to believe that as recently as March 13, 1932, Professor A. M. Carr-Saunders wrote in the columns of the *Observer* that "it is very desirable that the practice of family limitation should spread through all sections of the country," when that practice had then become so common that it had already reduced the birth rate to 15.3 per 1,000, or far below replacement rate.

Let us for a moment put birth rates aside and look at the elementary school record. Here is no account of woebegone income-tax payers bled white of the means to educate children and therefore deciding to be childless, but of the children of the masses, who most certainly are better off than when the birth rate was high.

ENGLAND AND WALES CHILDREN ON THE REGISTERS OF PUBLIC ELEMENTARY SCHOOLS MAINTAINED BY LOCAL EDUCATION AUTHORITIES

1913	.	6,016,000
1920	.	5,918,000
1933	.	5,639,000
1936	..	5,251,000
1937	.	5,123,000
Fall in the twenty-four years 1913-37	.	893,000
Fall in the twelve months March 1936-March 1937	.	128,000

¹ Reprinted by permission of the *Nineteenth Century*, London

This is a picture not of decline but of fall. The Board of Education published in 1933 an estimate by my gifted friend, the late Sir Alexander Watson, which showed that it was probable that in the next fifteen years the elementary school population might fall by about a million upon certain not improbable assumptions. Since 1933 the birth rate has slightly recovered, from 14.4 to 14.8, but there is grave fear that the country as a whole, with rural depopulation still continuing, may soon have as low a birth rate as that of L. C. C. London, which is 13.6.

The Population Investigation Committee have published a memorandum which, on the assumption that nothing is done to change recent trends of fertility and mortality, offers the following estimates of the future population of England and Wales

1940	40,700,000
1950	39,800,000
1970	33,800,000
2000	17,700,000
2035	4,400,000

These figures have been widely and carelessly used by people whose voices carry authority, but they should be regarded with extreme caution. I do not believe in scare methods to aid a good cause, and it should be pointed out to the uninformed who are tempted to quote such estimates that they assume a continuance of trend.

79 THE FUTURE OF AGRICULTURE

English statesmen are dissatisfied with the part that agriculture is now playing in the national economy. Contemporary discussions center about the wisdom of greater self-sufficiency in the production of food, the relation of production to national defense, the possibility of settling urban populations on small farms, the effects of a protective tariff on farm products, and the relation of agriculture to the nation's health. The Labour party advocates nationalization of the land. The article below brings out the wide implications involved in agricultural readjustment (Geoffrey S. Browne, "Farming and Food," *The English Review*, LXIV, 1937, 775-79).¹

¹ Reprinted by permission of *The English Review*, London.

Farm lands decay unobtrusively, their appearance is not so disturbing to the townsman's eye, and their plight does not strike the national conscience because it may be unnoticed by those who have no knowledge of what good farming means. Unfortunately, tumble-down cottages and half-ruined barns too often appear picturesque to the visitor, without impressing him that they are also symptoms of distress in the country. The exact loss of output due to undrained fields, and to the encroachment of bracken upon pasture land can be estimated by an expert only with difficulty. Moreover, the agricultural worker does not stay to tell of the ruin of the land, he tries his fortunes elsewhere, and usually joins the urban electorate. Yet, despite their comparative obscurity, derelict agricultural areas are just as much a reality as the distressed industrial areas, and a remedy for their ills is no less urgent. The acreage under the plough has declined rapidly in the post-War years. In 1936 there were 2,205,000 acres less arable land in Great Britain than in 1914, a decline of 15.4 per cent. Between 1919 and 1936 about 1,900,000 acres were lost to agricultural production in England and Wales alone. This means that land of an area equivalent to the whole of Norfolk together with East Suffolk has ceased to carry crops and grass. Precisely how this land is now used is not known. Much has undoubtedly been taken for urban development, for "ribbon building" and roads, and is irrecoverable for agriculture. There would be consolation if it were known that the land taken for this purpose were rough and infertile, but this is far from the truth. Too often the sale of "land ripe for development" has meant the final devastation of what was once first-class agricultural land. Many thousands of acres have been used for the construction of aerodromes, and for preservations like the "green belt" round London. These are reflections of the urbanization of the Kingdom.

Some urban encroachment is inevitable, but there must be an end to the haphazard squandering of agricultural land which is now a national scandal. I am convinced that the first step to the establishment of a long-term policy for farming as an industry is the recognition of the necessity for the conservation for the best use for the nation as a whole of the land which is the principal agent of production, yet the only one that is limited in quantity. Unrestricted competition for the use of land must ultimately be detrimental to the whole community. "Town planning" cannot provide the remedy. What is required is a land policy operating with power

to supervise town planning schemes, to veto schemes which are not in the best interests of the nation, and to co-ordinate the many demands for land

The exercise of this control is a fundamental necessity, but it would be only a preliminary act in the operation of a long-term policy for agriculture. It is important that there should be preserved as large an area of land as possible for agricultural production, consideration being given at the same time to the community's demands for land for other purposes, but there would still remain the greater and more difficult problem of providing the economic incentive to farm the land well. On this point there is at the present time great diversity of opinion as to the primary motive of agricultural production, and still less unanimity as to the form an agricultural policy should take. In view of the occupation structure of the population, this is not surprising. In Great Britain less than 7 per cent of the population is engaged in agriculture, as compared with 41 per cent in France, and some 35 per cent in Denmark. Of our 93 per cent non-agricultural population there are many who suggest that farming as an industry has no place in the national economy. It has been suggested that in time of war our farming would be a liability and not an asset owing to the great demands made upon shipping space by imported feeding stuffs and fertilisers. More often, however, it is the need for increasing the volume of international trade that is used as a basis of argument against the expansion of home agriculture. When there is not opposition to the expansion of agriculture, there is often complete apathy as to the condition of the countryside, or interest only for sentimental reasons. These attitudes make the farmer's problem not only difficult to solve but difficult even to approach, and have tended to make the farmer himself adopt an apologist attitude.

When the approach to the problem is made it is too often made from a single angle. Very rightly the defence aspect is emphasized. In time of war the existence of a vigorous agriculture is essential to the security of the nation, but war-time organization is not the basis on which the long-term policy for farming should be built. Moreover, in an emergency, productive capacity may be less important than storage capacity.

Again, there are those who look to the land as a solution to the problem of urban unemployment. They would transfer families from the distressed industrial areas to work on small holdings, the

conditions of the transfer being governed by the willingness of the unemployed to move rather than by their suitability for work on the land, and without any regard to the effects on the markets of existing producers of what would essentially be subsidized foodstuffs. The use of the land for this purpose is not going to relieve in any way the difficulties of the ordinary farmer. On the contrary it seems certain that it would add to his difficulties already made intolerable by the competition of foodstuffs imported at prices below the cost of production in even the exporting country. Further, although it is premature to judge the results of land settlement schemes, it is probable that from the employment aspect the benefits would not justify the expense incurred.

Single track approaches to the problem of agricultural policy tend to obscure the main issues, and to stress secondary reasons for building a vigorous farming industry instead of permitting concentration upon the most fundamental purpose of agriculture which is to provide food for the people. The aspect of nutrition is of great importance, and from the political standpoint, it will probably be still more significant in the future. The first report of the Advisory Committee on Nutrition emphasizes the need for freshness and greater consumption of milk, eggs, fruit and vegetables and meat. At the present time, the total supply in the United Kingdom of liquid milk for human consumption, together with the liquid milk equivalent of condensed and dried milk, amounts to an average of not more than half a pint per head per day. This figure is low compared with the estimated consumption in many other countries, and it is recommended that it should be increased to seven-eighths of a pint daily. Further, to meet the requirements of the different sections of the population, it would be necessary to increase the consumption of eggs from the present level of approximately 2.9 per head per week to an average of 3.9 eggs per head per week. The foodstuffs which possess the greatest health-giving qualities are those for the production of which our farmlands are especially suited. In the season 1935-36, of the total value of the agricultural output sold off farms in England and Wales approximately 80 per cent, or £170.3 millions, was represented by livestock, milk and dairy produce, poultry and eggs, and fruit and vegetables.

Our output of these products could be very substantially increased, and for the improvement of nutrition the output should

be so increased In this respect the interests of farmers and those of the community as a whole do not differ

80 BRITISH TRADE PROBLEMS

The task of maintaining a satisfactory standard of living for approximately forty-five million people is a challenging one. The British Isles are small and their resources wholly inadequate. The high standard of living which Britain had attained prior to the World War was made possible by a high degree of industrialization and by a huge foreign trade. England imported food and raw materials, such as cotton, from the United States. It used the raw material to manufacture finished products which were sent abroad to pay for imports. This system gave employment to millions of workmen and lucrative opportunities for investors. The World War threw this economy into disorder, dislocating industry and causing a serious loss of markets. After years of futile experimentation the National Government in 1931 began a new economic policy, forsaking free-trade doctrine and emphasizing home markets for English business. The article below describes this new policy, together with other trends in Great Britain's economic life. (Jack Fischer, "How Little Is Little England?" *Harper's Magazine*, October, 1935, pp. 623-31) ¹

Up until a bare two hundred years ago England was a third-rate nation, smaller than Sweden and hardly more important. Then that economic miracle, the Industrial Revolution, flung her into a career of modern capitalism a full fifty years ahead of all her neighbors. Within one lifetime the tiny island was transformed into Europe's No. 1 industrial power, enjoying an all but complete monopoly in machine manufacturing.

The result was that by the beginning of the twentieth century Englishmen found themselves in a lucrative but highly precarious situation. Great Britain was supporting a population of thirty-five millions on a patch of land which ordinarily could not feed half that number. She did it only by turning the whole nation into a

¹ Reprinted by permission of *Harper's Magazine*, New York

giant factory, spinning the textiles and smelting the iron for four continents. Never before had any nation been so little self-sufficient, so mortally dependent on markets and food supplies in other lands. It was improbable that this sudden monopoly of world trade could endure forever, and as a matter of fact it did not.

Long before 1900 other nations—Germany and America in particular—were building their own industrial plants and scrambling for their shares of the world's markets. England kept her lead only by continual expansion of her private hunting grounds, the Empire. All through the Victorian years she added to the White Man's Burden with almost indecent haste, snatching strips of the Soudan, South Africa, and Northwest Frontier as fast as she could move the troops in.

Now the war set a period to England's industrial supremacy. Ever since 1914 other nations have been stealing large handfuls of her one-time markets, and Britain's protests have been increasingly feeble. Even before the depression, therefore, much of her vital foreign trade was gone for good. The story of the lost markets falls into three chapters, and the first might be titled "How England Cut Her Own Throat."

Quite naturally Armistice Day found Great Britain with an obsolete industrial plant. During the four years of hostilities every resource had been strained to equip her allies and keep her own armies in the field. Only the minimum replacements had been made in the peacetime factories, so that in 1918 Lancashire was still operating its 1914 spindles, and Birmingham was limping along with outmoded rolling mills and blast furnaces.

To make matters worse, England's cost structure had become frozen. On the one hand, cartels and trusts had been built up in many important industries expressly to forestall price cutting. In the woolen trades, to cite one notorious example, an individual manufacturer dared not lower prices to a foreign buyer without the permission of the Woolcombers' Federation, and such competitive straitjackets were not at all uncommon . . .

The whole industrial machine, in other words, had lost that flexibility which is the very essence of a workable capitalism. Any attempt to reduce costs by the orthodox method of deflation was bound to fail, the result would be merely widespread unemployment, not the expected fall in prices. The upshot was that England was consistently undersold by her more adaptable rivals. British

capitalism in its old age could no longer compete on fighting terms—it suffered from a sort of economic arthritis, stiffening all its joints .

If the epidemic of nationalism could have been quarantined in Europe, Britain might have recouped her losses elsewhere. What hurt most was the infection of her own family. As Canada, Australia, and South Africa have grown into full-fledged nations they have been pardonably eager to develop their own industries. Meanwhile trade relations with the mother country have become uncomfortably tense, and such moves as the Ottawa conference have not done much to ease the strain. Even now, for example, Australia is threatening a commercial vendetta in retaliation for Great Britain's restrictions on meat imports.

India, however, is the dependency where the virus of economic nationalism has bitten deepest. There, in England's most lucrative textile market, Gandhi and the local capitalists have combined to hammer home two points: (1) India will never be free so long as England can milk a profit out of her; (2) It is foolish for India to raise cotton, ship it to Lancashire to be spun, and then buy the cloth back at something like five-fold cost. As a consequence, Indian cotton mills have been spreading like the banyan tree. In the five years since 1929, for instance, their annual consumption of cotton jumped from 1,997,000 bales to 2,636,000. Incidentally, China, once the most important cotton market outside the Empire, has learned the same lesson. Her home spindles increased their output 32 per cent in the same five years. These gains have been almost entirely at England's expense, and in both countries home manufacture promises to keep on growing for years to come.

Even those colonial markets which are still exploitable no longer belong exclusively to England. Her competitive weakness during the post-war years was of course a godsend to her rivals. Many nations had greatly expanded their industrial output during the conflict, and when peace came they were quick to trespass on a half-dozen of Britain's old-time trade reserves. New York, for instance, began to share the world's financial leadership with London. America, France, Germany, and Italy threw subsidized fleets on the water to capture a share of the transatlantic traffic. They succeeded so well that England's vital shipping trade dwindled 30 per cent in volume and 60 per cent in value in the five years after 1929.

The most notorious rival, however, has been Japan. A combination of cheap labor, highly integrated industrial organization, and modern technic has made her an unbeatable competitor. She can produce almost anything from bicycles to rubber boots at a lower cost than British factories [can].

At any rate, Britain took her first dose of pain-killer in 1931, when she went off the gold standard and began to depreciate the pound. True enough, she swallowed the pill only when it was rammed down her throat. The National Government had specifically pledged itself to cling to gold, and it hung on until the continental banking crisis shoved it off. Even then the stimulus to British trade was not so great as might have been expected, because the Japanese yen depreciated in step with the pound, and a little later the dollar dived off gold. Yet the immediate effect was fairly good. British products were automatically marked down to all foreign customers, and the export industries began to show new life. Credit expansion, moreover, became possible on a large scale for the first time since 1921, and business men were encouraged to replace their obsolete plant.

The National Government's other anodyne was even more effective. By putting up protective tariffs the cabinet encouraged a whole range of neglected home industries. Simultaneously, Walter Elliott's farm marketing schemes began to revive England's long-moribund agriculture. The nation was forced to "Buy British" with a vengeance, and the so-called sheltered industries enjoyed a burst of sudden prosperity. To round off its recovery drive, the government launched a program of tax-financed home building, which to American eyes would look scandalously socialistic. The building trades, as a consequence, showed a quick and substantial profit.

All of the results of course were not so happy. It is true that the tariffs and marketing schemes raised prices and, therefore, lowered the standard of living. It is equally true that in the long run they will clamp one more handcuff on world trade, thus indirectly hurting the export industries. They are a tacit admission that England can no longer live on her overseas trade, that sooner or later she must become increasingly self-contained. Here is the beginning of a new "Little England" policy.

Given fifty years of peace. England might be expected to approach a new and more modest equilibrium. Her exports, first

of all, should become stabilized at a fraction of their former volume. The character of her exports also is likely to change. Already the more far-seeing manufacturers are leaving the rough mass-production field, where they have been consistently defeated by Japan. They are concentrating on the quality goods—the fine woolens and linens, the specialty steels and superbly tooled machinery which are the proudest products of British craftsmanship.

At the same time, the bulk of heavy industry should adjust itself primarily to serve the home market. Even now the change-over is under way, the government is encouraging local business men to turn out a dozen commodities once drawn from abroad. The most noteworthy example perhaps is gasoline. Without an oil well in the island, Great Britain last year produced fifty-two million gallons of gasoline, and she plans to double that output within two years. Nearly the whole supply came from hydrogenated coal, processed in huge new plants near Billingham, Manchester, and Seaham. By nursing the new industry with a generous preference scheme, the government hopes to kill two birds with one lump of bitumen, homemade gasoline may both rescue the derelict mining districts and make Britain independent of foreign petroleum.

Similarly, the Little England of tomorrow will have to learn to feed herself. To-day approximately half of her foodstuffs are bought from overseas, while much of her own land lies idle. During the Victorian era thousands of lush acres were turned from farmland into meadows, parks, and country estates for Birmingham steel masters. Some of that still under the plow is, according to American standards, hopelessly ill-farmed. Hedges split the countryside into tiny fields, shaggy horses turn one furrow at a time, and here and there a yeoman still swings his scythe. Very picturesque, of course, but not exactly efficient.

Little by little, however, Britain is beginning to grow her own victuals, since 1931 she has cut down agricultural imports by \$350,000,000 annually. The process has been both expensive and painful. Compared with the regimentation of the English farmer, America's AAA looks like Boy Scout stuff. No British dairyman can sell a pint of milk to anyone except the official Milk Board, which, incidentally, has increased output by one-fifth in a year's time. After doling out lavish subsidies to raise beet sugar production to half a million tons a year, the government now plans to regulate the sugar factories along public utility lines. In other fields

paternalism is carried still farther, the new Bacon Development Board, for example, will have power to license packing plants, fix grades and prices, and supervise advertising and the industry's personnel

81 FOREIGN POLICY AND NATIONAL DEFENSE

The interests of Great Britain abroad extend to every corner of the globe. Whether it be Japanese encroachments in China, Italian aggression in Africa, or civil war in Spain, British diplomacy is quickly implicated. There is incessant worry over the safety of the Empire, the control of the Mediterranean, the development of markets, the protection of investors, and numerous other interests. Nothing, however, stirs the British public quite so deeply as the danger of a general war on the Continent. England is a *status quo* nation, satisfied with her general position in the world and asking only for a chance to develop her holdings in peace. The memory of the ravages of the World War and the knowledge that her cities are not easily defended against air raids incline the country still more toward peace.

Consequently, the British watched the increasingly aggressive policies of Germany and Italy with consternation and apprehension. The latter countries took advantage of Great Britain's reluctance to arm for a general European war and of her willingness to make every diplomatic sacrifice to avoid war consistent with the preservation of her vital interests and honor. This British policy, although severely criticized at home and abroad, led her to acquiesce in the German annexation of Austria, Memel, and the partition of Czechoslovakia, and in the Italian conquest of Ethiopia and intervention in Spain.

During 1937 and 1938 the British attitude underwent a gradual hardening toward the Rome-Berlin Axis as it became apparent that a policy of "appeasement" would not satisfy the totalitarian states. Japanese aggressions in the Far East likewise stirred British minds to the seriousness of the Empire's posi-

tion and of the inadequacy of current diplomatic policies. Belatedly the government began to take prodigious strides toward strengthening the nation's armed forces and toward the creation of mutual assistance pacts calculated to stop further aggressions by Germany and Italy. The following speech by Viscount Halifax, Secretary of State for Foreign Affairs, reveals the altered attitudes and policies which went into effect.¹

A A STATEMENT OF BRITISH POLICY

When I look back to the speech I delivered at the Chatham House dinner in June last year I am conscious, as we all are, of the great changes that have taken place. A year ago we had undertaken no specific commitments on the Continent of Europe beyond those which had then existed for some considerable time and were familiar to you all.

Today we are bound by new agreements for mutual defense with Poland and Turkey, we have guaranteed assistance to Greece and Rumania against aggression, and we are now engaged with the Soviet Government in negotiations to which I hope there may very shortly be a successful issue with a view to associating them with us for the defense of the States in Europe whose independence and neutrality may be threatened.

We have assumed obligations and are preparing to assume more with a full understanding of their causes and with a full understanding of their consequences. We know that if the security and independence of other countries are to disappear our own security and our own independence will be gravely threatened. We know that if international law and order is to be preserved we must be prepared to fight in its defense.

In the past we have always stood out against any attempt by any single power to dominate Europe at the expense of the liberties of other nations, and British policy is therefore only following the inevitable line of its own history if such an attempt were to be made again.

But it is not enough to state a policy. What matters is, firstly, to convince the nation that the policy is right and, secondly, to take the steps necessary for that policy to succeed.

¹ The New York Times, June 29, 1939

I believe that at no time since the World War has there been such national unity on the main essentials of our foreign policy and that with this spirit of unity goes a deep and widespread determination to make that policy effective. But I believe, too, that among all classes of our people, who, in virtue of their common citizenship, are being called upon to defend their country and the causes for which it stands, there is an increasing desire to look beyond the immediate present and to see before them some goal for which they would willingly sacrifice their leisure and, if need be, their lives.

The immense effort the country is making in equipping itself for defense at sea, in air, and on land is without parallel in peacetime. We have an unchallengeable navy. Our air force, still undergoing expansion which has outstripped all the expectations of a few months ago, has now nothing to fear from any other. I have little doubt that its personnel, in spirit and in skill, is superior to all others. Our army, once derided, but which survived to prove its worth so that it made a boast of that derision, is undoubtedly small in comparison to that of some other countries. But, as happened once before, we are creating here also a powerful weapon for the defense of our own liberty and that of other peoples.

None of this formidable array of strength will be called into play except in defense against aggression. No blow will be struck, no shot fired. Of the truth of that every one in this country is convinced. I believe, myself, most people in other countries still accept it also in spite of the propaganda that dings into their ears the contrary.

What is also now fully and universally accepted in this country but what may not even yet be as well understood elsewhere, is that in the event of further aggression we are resolved to use at once the whole of our strength in fulfilment of our pledges to resist it . . .

If, then, we hold fast to these principles, what is the application of them to our foreign policy? At a time when our aims are being constantly misrepresented it is perhaps well to restate them boldly and with such plainness of speech as I can command. And I will try to deal briefly both with our aims in the immediate present and our aims in the future, what we are doing now and what we should like to see done as soon as circumstances make it possible.

Our first resolve is to halt aggression I need not recapitulate the acts of aggression that have taken place or the effect they have had upon the general trust that European nations feel able to place in the world's undertakings For that reason and for that reason alone, we have joined with other nations to meet a common danger These arrangements, we all know, and the world knows, have no purpose other than that of defense They mean what they say—no more and no less But they have been denounced as aiming at the isolation—or, as it is called, the encirclement—of Germany and Italy and as designed to prevent them from acquiring the living necessary to their national existence I will deal with these charges tonight and I propose to do so with complete frankness. .

I come next to *Lebensraum* [living space] This word, of which we have not heard the last, needs to be fairly carefully examined Every developed community is, of course, faced with the vital problem of living space But the problem is not solved simply by acquiring more territory That may, indeed, only make the problem more acute It can only be solved by the wise ordering of the affairs of a country at home and by adjusting and improving its relations with other countries abroad Nations expand their wealth and raise the standard of living of their people by gaining the confidence of their neighbors and thus facilitating the flow of goods between them

The very opposite is likely to be the consequence of action by one nation in the suppression of the independent existence of her smaller and weaker neighbors And if *Lebensraum* is to be applied in that sense we reject it and must resist its application.

Through co-operation—and we, for our part, are ready to co-operate—there is ample scope for extending to all nations the opportunity of a larger economic life, with all that this means, which is implied in the term *Lebensraum*

If the world were organized on such lines neither Germany nor Italy would need fear for her own safety and no nation could fail to profit from the immense material benefits which the general application of science has brought within universal reach. But no such society of nations can be built upon force, in a world which lives in fear of violence and has to spend its substance in preparing to resist it

It is idle to cry peace when there is no peace or to pretend to

reach a settlement unless it can be guaranteed by the reduction of warlike preparations and by the assured recognition of every nation's right to the free enjoyment of its independence

At this moment the doctrine of force bars the way to settlement and fills the world with envy, hatred, malice and all uncharitableness. But if the doctrine of force were once abandoned so that the fear of war that stalks the world was lifted, all the outstanding questions would become easier to solve.

If all effort that is now devoted to the senseless multiplication of armaments with the consequent increase of insecurity and distrust, were to be applied to the common peaceful development of resources, the peoples of the world would soon find an incentive to work together for the common good, they would realize that their true interests do not conflict and that progress and well-being depend upon a community of aim and effort. The nations would then be in position to discuss with a real promise of success both political grievances and economic difficulties, whether in the international or the colonial field.

How does all this affect our wider problems? One of the most significant facts in world history is the extent to which the principle of trusteeship has come to be adopted in the British Commonwealth during the last thirty years and there is surely something here that can be used for the great benefit of mankind. Can we look forward to a time when there may be agreement on the common methods of colonial development that may ensure not only that the universally acknowledged purpose of colonial administration be to help their inhabitants steadily to raise their level of life but also that colonial territories may make a growing contribution to the world's resources?

On such an agreed foundation of purpose we hope that others might be prepared with us to make their contribution to a better world. If so, I have no doubt that in the conduct of our colonial administration we should be ready to go far upon the economic side, as has been already done on the political side, in making a wider application of the principles that now obtain in mandated territories, including, on terms of reciprocity, that of the open door.

Whatever may be the difficulties of the colonial problem, or of any other, I would not despair of finding ways of settlement once everybody has got the will to settle. But unless all countries do in

fact desire a settlement, discussions would only do more harm than good

It is, moreover, impossible to negotiate with a government whose responsible spokesmen brand a friendly country as thieves and blackmailers, and indulge in daily monstrous slanders on British policy in all parts of the world. But if that spirit which is clearly incompatible with any desire for a peaceful settlement, gave way to something different, His Majesty's Government would be ready to pool its best thought in order to end the present state of political and economic insecurity.

B ON THE PROPAGANDA FRONT

The totalitarian states have from the first exercised control over freedom of speech and press within their borders as an indispensable means of maintaining their authority. The result has been an incessant flow of propaganda designed to create support for the regimes both at home and abroad. The establishment by the British government of the Department of Foreign Publicity, in the Foreign Office, marks its entry into the war of propaganda now being waged on a world-wide basis. The function of the Department in serving as a means of reaching peoples isolated behind walls of censorship and saturated with official propaganda is told in the following account ("Telling the World," *The Economist*, July 1, 1939) ¹

The new Foreign Publicity Department, under the direction of Lord Perth, will co-ordinate and extend existing information and propaganda agencies. It will supersede the Vansittart Committee, which had advisory functions in the matter of propaganda, and it will include that section of the Foreign Office News Department which in the past has concerned itself with foreign publicity, further, it will co-ordinate with its own the activities of the British Council. Such matters as supervision of the B B C's foreign language broadcasts will come within its purview, together with any similar agencies which may exist or be in contemplation. Given intelligent direction, the Foreign Publicity Department should command both energy and opportunity, though at the beginning its main task will be one of co-ordination. At present most Gov-

¹ Reprinted by permission of *The Economist*, London

ernment Departments employ one or more trained publicity experts (it is worth noting that nearly all of them came to Whitehall from Fleet Street) whose task goes little further than the issue of "hand-outs" and the staying-off of over-inquisitive newspapermen. In this respect the Foreign Office leads, with Downing Street and the Treasury close at its heels each of these has a staff of experts who perform an invaluable daily task, and perform it very well.

In considering what the Foreign Publicity Department ought to do and where it should do it, the point of departure is strictly budgetary. There is no question yet of a full Ministry of Propaganda. The supplementary estimate to be presented to Parliament this month may be expected to show, compared with the sums being spent by other countries, a paltry total. The British Council, for instance, has an income of about £250,000, which is about a quarter of the sums being spent by Italy and France, and four per cent of what Dr. Goebbels is alleged to be spending. The first call must be for the Press, on making and using foreign press contacts, on bringing foreign journalists to London, on helping those who are actually *en poste* here. The British Council, formed in 1934 and enlarged in 1938, is doing excellent work within its limited means, parties of Norwegian, Danish, Turkish, and Roumanian editors have already been entertained here, and parties from Spain and Portugal are due to arrive within the next few weeks. Numbers of articles, photographs, and items of information are being circulated to the Press of foreign countries, mainly in Eastern and South-Eastern Europe, in the Near East, and in Latin America, and it is understood that a high percentage of these articles are accepted by the newspapers to which they are sent. Second in importance in the Council's activities is educative and visual propaganda, though here again we are spending hundreds where the Germans are spending thousands. Every year the Council sends out (the figure is rising) 170,000 newspapers and periodicals, and 33,000 books, to clubs, institutes, universities, libraries. In every direction it is significant that the demand far exceeds the supply. The scores of Anglophil societies, spontaneous and unaided from abroad, which cling to their premises in many parts of the world (there were 35 in Czecho-Slovakia and there are 22 in Jugoslavia) are at last receiving aid from England. Opportunities for learning English are being extended (there are 4,500 pupils of the new British Institute at Athens); lectures, theatre shows, book

exhibitions, and the like are some of the means of visual propaganda which are being used. There are at the moment 154 foreign students in the United Kingdom subsidised by the Council, and other schemes are also going ahead. Except in a few cases—such as that in which a distinguished English lady undertook to exhibit knitted textiles to Balkan audiences whose curiosity was less than their sense of sartorial tradition and a good deal more than their purchasing-power—the British Council has shown an admirable capacity for seeing the facts and then grappling with them. It remains for the Government to back up what is already being done by judicious expenditure on the display which impresses the common man with no special interest in Britain. Less modest diplomatic quarters, the setting up of tourist offices (during the summer on the Dalmatian Coast, for instance) which shall do something to rival those of the Axis countries, more generous provision of newspapers and informative literature, means to combat German and Italian subsidised news agencies—these are some of the ways in which money could usefully be spent.

There is, indeed, a scope limited only by the amount of money the Government means to spend. In deciding what that amount shall be the Government will presumably be guided by the consideration that the Foreign Publicity Department is not a Ministry of Propaganda, though it may be the “near-war” embryo of one, and that its task shall therefore be limited strictly to the passing-on, and not include the “creation,” of news. This point is of vital importance. For it is obvious that as soon as war breaks out truth, served to-day in the search for objectivity, will, as usual, be the first casualty. By extension, the Foreign Publicity Department might be suspected of a tendency in that direction, and it will be one of Lord Perth’s greatest responsibilities to see that this is not so. It is good that Mr. Chamberlain has made it clear, once and for all, that there is to be no tampering with Press freedom. For although propaganda (or publicity) is not necessarily a distortion of the truth, you cannot tell the whole truth by it, even if you wish to, for propaganda is essentially a comparative affair, a watering down and a toning-up, an appeal for sympathy, or indignation, or connivance. From the point of view of the body politic as much as from that of the working journalist, propaganda organisations apart from their purely informative functions are a thorough-going nuisance and a standing discouragement to conscientious work. With

the reservation that its functions will remain in strict accordance with those laid down by Mr Chamberlain, the new Department may be heartily welcomed. It can do no harm, after all, unless our foreign policy falls again on evil days and it may do a very great deal of good.

C THE COMPULSORY MILITARY SERVICE ACT

Although always a superior naval power, Great Britain has never maintained a large standing army and has never had a system of compulsory peacetime military training. Even during the World War the British relied upon voluntary enlistments until well in 1916, long after every other major belligerent had resorted to conscription.

Early in 1939 Great Britain became so alarmed over the growing arrogance and military strength of the Rome-Berlin Axis that, urged by the French, she inaugurated her first system of peacetime military training for the male population of prescribed ages. The principal provisions of the Act, which marks a drastic departure from established tradition, are indicated in the following address to the House of Commons by Prime Minister Neville Chamberlain (*Parliamentary Debates, Commons, CCCXLVI, 1151-54*) on April 26, 1939.

His Majesty's Government have recently given fresh consideration to the procedure applicable to measures which they might consider necessary to put the country into a complete state of preparedness for defense.

Results of their investigation show that the present procedure for mobilization of forces is antiquated in character and is quite unsuited to modern conditions, based as it is upon the hypothesis that war would only come after such a period of warning as would give time to change from peace to war footing.

Broadly speaking, under present procedure mobilization, whether complete or partial, can only take place after the issue of a proclamation—which is different in the case of each service—declaring that state of emergency exists.

The issue of such proclamations was no doubt originally contemplated as taking place when the outbreak of war appeared imminent, but in present times war may not appear imminent and

yet general conditions may be so uncertain that it is desirable to take certain precautions without publicity and shock to public confidence which would be caused by the issue of proclamations.

Accordingly, the Government have decided at once to introduce a bill entitled The Reserve and Auxiliary Forces Bill, which will simplify procedure and enable His Majesty by order in Council to authorize various service departments to call up any class or description of the reserve and auxiliary forces

The bill will be temporary in character We hope it will be passed without any delay in order that we may be empowered to act under it at once

I may say that every other country in Europe has the powers which we seek to obtain under this bill, and practically every one has availed itself of them at one time or other to effect partial mobilization of its forces

The Government have given consideration also to the new liabilities which, with the approval of all quarters of the House, they have incurred in Europe within the last month and to the means they have at their disposal to discharge them effectively. I need perhaps hardly repeat that the object of the assurances we have given to certain countries as well as of conversations now proceeding with other governments is not to wage war but to prevent it.

Bearing this object in mind, we cannot but be impressed with the view shared by other democratic countries and especially by our friends in Europe that despite the immense efforts this country has already made by way of rearmament nothing would so impress the world with the determination of this country to offer firm resistance to any attempt at general domination as its acceptance of the principle of compulsory military service, which is the universal rule on the continent

There is obvious weakness in the voluntary system which allows one man to devote himself to pleasure while his neighbor has to devote his leisure and his holidays to training himself to be ready in war to risk his life and the future of his family for his country

It is, I believe, generally understood and accepted that in time of war military service would be made compulsory from the outset But hitherto it has not been thought necessary to introduce any such measures in peace time and I myself have renewed a pledge given by my predecessor that compulsory service would not be introduced during the life of this Parliament in peace time

We are not at war now, but when every country is training all its resources to be ready for war, when confidence in the maintenance of peace is being undermined and everyone knows that if war were to come we might pass into it in a matter not of weeks but of hours, no one can pretend that this is peace time in any sense in which the term could fairly be used.

Under the bill which I have already described to the House, it will be necessary to call up certain Territorial and non-regular air force personnel to reinforce our system of anti-aircraft defense throughout the period of uneasiness which may last for a considerable time yet, but it must be recognized that this will entail on the part of Territorials who are called up a sacrifice greater and more prolonged than was anticipated when they enrolled, and it would be neither fair to them nor to their employers that they should be expected to shoulder such burdens for long.

Accordingly the Government have come to the conclusion that, to meet these new and I hope exceptional conditions, some measure of compulsory military training has for the time being become necessary. I say for the time being because I wish to emphasize that the Government's proposals, which will be embodied in a second bill to be introduced at the same time as the first and to be entitled "The Military Training Bill," will be of a temporary character.

As will be the case with the Reserve and Auxiliary Forces Bill, it is contemplated that powers given by the Military Training Bill will last for three years, but if at any earlier date the Government are of the opinion that circumstances have so changed as to make these powers no longer necessary, they can be brought to an end by order in Council.

On the other hand, they can be extended after three years for a year at a time, but only after an affirmative resolution has been passed by both Houses of Parliament. I anticipate that the military training bill will be introduced next week and I do not, therefore, propose to enter upon any account of its details. I will, however, inform the House of its main features which are:

First, power to call up for military training all men between the ages of 20 and 21.

Second, training to be given in this country only unless war breaks out when liability to serve abroad would apply to all alike, whether already called up or not.

Third, men to be called up will receive six months' training and at the end of that period they will be discharged and given opportunity, if there is a vacancy, of entering the Territorial Army for three and one-half years, during which time they will be called upon to fulfill normal obligations of a territorial soldier, namely a fixed number of drills a year and a period in camp. If they do not exercise the option, they will pass to the special reserve of the regular army.

Arrangements will be made to cover cases of men who, before reaching the age of 20, enter auxiliary arms of the royal navy or royal air force where they would undergo comparable periods of training.

Fourth, provision will be made whereby individuals, when good cause is shown, may anticipate or postpone for a specified period the date of their calling up so far as national interests permit.

Fifth, provision will be made for exemption by the tribunal of conscientious objectors, on condition they undertake work of national importance.

Introduction of this measure leaves the voluntary system as the basis of the three defense services.

The voluntary principle will continue for recruitment for the Royal Navy, the regular army, the regular and the non-regular Royal Air Force and Territorials, as well as for all branches of civil defense. It is of the utmost importance that regular and auxiliary forces should be maintained at full strength.

PART II

FRANCE

CHAPTER XII

THE FRENCH CONSTITUTION

82 THE CONSTITUTIONAL LAWS

THE Constitution of France consists not of one but of three laws. They were adopted on different dates by the Constitutional Assembly of 1875. Because these three constitutional laws are brief and somewhat incomplete they have been supplemented by two so-called "organic" laws which describe the ways by which the Senate and Chamber of Deputies are elected. The Constitution of France is so general in character that amendments have seldom been necessary. The National Assembly, which consists of the Senate and Chamber of Deputies sitting together at Versailles, may amend it, and details have been altered by amendments in 1879, 1884, and 1926 (Text is taken from Herbert F. Wright [Ed.], *The Constitution of the States at War*, 1919, pp. 193-97.)

CONSTITUTIONAL LAW OF 25 FEBRUARY 1875 ON THE ORGANIZATION OF THE PUBLIC POWERS

Article 1. The legislative power shall be exercised by two assemblies. The Chamber of Deputies and the Senate.

The Chamber of Deputies shall be elected by universal suffrage, under the conditions determined by the electoral law.

The composition, the method of election and the attributions of the Senate shall be regulated by a special law.

Article 2 The President of the Republic shall be chosen by an absolute majority of votes of the Senate and Chamber of Deputies united in National Assembly He shall be elected for seven years He shall be eligible for re-election

Article 3 The President of the Republic shall have the initiative of laws, concurrently with the members of the two houses He shall promulgate the laws when they have been voted by the two houses, he shall look after and secure their execution

He shall have the right of pardon, amnesty may only be granted by law.

He shall dispose of the armed force

He shall appoint to all civil and military positions

He shall preside over State functions, envoys and ambassadors of foreign powers shall be accredited to him

Every act of the President of the Republic shall be countersigned by a minister

Article 4 As vacancies occur on and after the promulgation of the present law, the President of the Republic shall appoint, in the Council of Ministers, the councilors of State in regular service

The councilors of State thus chosen may be dismissed only by decree rendered in the Council of Ministers

Article 5 The President of the Republic may, with the advice of the Senate, dissolve the Chamber of Deputies before the legal expiration of its mandate

In that case the electoral colleges shall be assembled for new elections within the space of 2 months, and the Chamber within the 10 days following the close of the elections

Article 6 The ministers shall be collectively responsible to the houses for the general policy of the government, and individually for their personal acts

The President of the Republic shall be responsible only in case of high treason

Article 7 In case of vacancy by death or for any other reason, the two houses assembled together shall proceed at once to the election of a new President

In the meantime the Council of Ministers shall be vested with the executive power

Article 8 The houses shall have the right by separate resolutions, taken in each by an absolute majority of votes, either upon their own initiative or upon the request of the President of the Republic, to declare a revision of the constitutional laws necessary

After each of the two houses shall have come to this decision, they shall meet together in National Assembly to proceed with the revision

The acts effecting revision of the constitutional laws, in whole or in part, shall be passed by an absolute majority of the members composing the National Assembly.

The republican form of government shall not be made the subject of a proposed revision

Members of families that have reigned in France are ineligible to the Presidency of the Republic

Article 9¹

CONSTITUTIONAL LAW OF 24 FEBRUARY 1875
ON THE ORGANIZATION OF THE SENATE

Articles 1-7²

Article 8 The Senate shall have, concurrently with the Chamber of Deputies, the power to initiate and to pass laws Money bills, however, shall first be introduced in and passed by the Chamber of Deputies

Article 9 The Senate may be constituted a court of justice to try either the President of the Republic or the ministers, and to take cognizance of attacks made upon the safety of the State

Article 10 Elections to the Senate shall take place one month before the time fixed by the National Assembly for its own dissolution The Senate shall organize and enter upon its duties the same day that the National Assembly is dissolved.

Article 11 The Present law shall be promulgated only after the passage of the law on the public powers

CONSTITUTIONAL LAW OF 16 JULY 1875
ON THE RELATIONS OF THE PUBLIC POWERS

Article 1 The Senate and the Chamber of Deputies shall assemble each year on the second Tuesday of January, unless convened earlier by the President of the Republic

¹ Repealed by the Constitutional Law of 21 June 1879 Article 9 originally read "The seat of the executive power and of the two houses shall be at Versailles"

² These seven articles, concerning the composition of the Senate and of the electoral bodies which names the senators, were deprived of their constitutional character by Article 3 of the Law of 14 August 1884 and were repealed by Article 9 of the Law of 9 December 1884

The two houses shall continue in session at least five months each year. The sessions of the two houses shall begin and end at the same time.

Article 2. The President of the Republic pronounces the closing of the session. He may convene the houses in extraordinary session.

He shall convene them if, during the recess, an absolute majority of the members of each house request it.

The President may adjourn the houses. The adjournment, however, shall not exceed one month, nor take place more than twice in the same session.

Article 3. One month at least before the legal expiration of the powers of the President of the Republic, the houses shall be called together in National Assembly to proceed to the election of a new President.

In default of a summons, this meeting shall take place, as of right, the fifteenth day before the expiration of these powers.

In case of the death or resignation of the President of the Republic, the two houses shall assemble immediately, as of right.

In case the Chamber of Deputies, in consequence of Article 5 of the Law of 25 February 1875, is dissolved at the time when the Presidency of the Republic becomes vacant, the electoral colleges shall be convened at once, and the Senate shall assemble as of right.

Article 4. Every meeting of either of the two houses which shall be held at a time when the other is not in session is *ipso facto* illegal and void, except in the case provided for in the preceding article, and in case the Senate meets as a court of justice, in the latter case, judicial duties alone shall be performed.

Article 5. The sittings of the Senate and of the Chamber of Deputies shall be public.

Nevertheless either house may meet in secret session, upon the request of a fixed number of its members, determined by the rules.

It shall then decide by absolute majority whether the sitting shall be resumed in public upon the same subject.

Article 6. The President of the Republic communicates with the houses by messages, which shall be read from the tribune by a minister.

The ministers shall have entrance to both houses, and shall be heard when they request it. They may be assisted, for the discus-

sion of a specific bill, by commissioners named by decree of the President of the Republic

Article 7 The President of the Republic shall promulgate the laws within the month following the transmission to the government of the law finally passed. He shall promulgate, within three days, laws the promulgation of which shall have been declared urgent by an express vote of each house.

Within the time fixed for promulgation the President of the Republic may, by a message with reasons assigned, request of the two houses a new discussion, which can not be refused.

Article 8 The President of the Republic shall negotiate and ratify treaties. He shall give information regarding them to the houses as soon as the interests and safety of the State permit.

Treaties of peace and of commerce, treaties which involve the finances of the State, those relating to the status of the persons and to the right of property of French citizens in foreign countries, shall be ratified only after having been voted by the two houses. No cession, exchange, or annexation of territory shall take place except by virtue of a law.

Article 9. The President of the Republic shall not declare war without the previous consent of the two houses.

Article 10 Each house shall be the judge of the eligibility of its members and of the regularity of their election, it alone may receive their resignation.

Article 11. The bureau of each house shall be elected each year for the entire session, and for every extraordinary session which may be held before the regular session of the following year.

When the two houses meet together as a National Assembly, their bureau shall be composed of the president, vice-presidents and secretaries of the Senate.

Article 12 The President of the Republic may be impeached only by the Chamber of Deputies and may be tried only by the Senate.

The ministers may be impeached by the Chamber of Deputies for offenses committed in the performance of their duties. In this case they shall be tried by the Senate.

The Senate may be constituted into a court of justice, by a decree of the President of the Republic issued in the Council of Ministers, to try all persons accused of attempts upon the safety of the State.

If proceedings should have been begun in the regular courts, the decree convening the Senate may be issued at any time before the granting of a discharge

A law shall determine the method of procedure for the accusation, trial and judgment

Article 13 No member of either house shall be prosecuted or held responsible on account of any opinions expressed or votes cast by him in the performance of his duties

Article 14 No member of either house shall, during the session, be prosecuted or arrested for any offense or misdemeanor, unless upon the authority of the house of which he is a member, except in the case of *flagrante delicto*

The detention or prosecution of a member of either house shall be suspended for the session, and for the entire term of the house, if the chamber requires it

AMENDMENT OF AUGUST 10, 1926

The constitutional law of February 25, 1875, relative to the organization of public powers is completed by the following article:

The autonomy of the sinking fund for the national defense bonds and for the amortization of the public debt has a constitutional character. There shall be applied to that fund until the complete amortization of the national defense bonds and the items composing the fund

- (1) The net receipts from the sale of tobacco,
- (2) The income from the supplementary tax on inheritances and on voluntary gifts,
- (3) The income from above-named sources, in the course of the enforcement of the law following its promulgation, shall constitute the minimum annual allocation to the sinking fund. In the event that these resources become smaller, an annual credit equal to the decrease shall be written into the budget

83 A FRENCH INTERPRETATION OF THE CONSTITUTION

Even a cursory reading of the French Constitution reveals many of the ways in which it differs from the constitutions of other countries. But only persons acquainted with French history and social life can understand just how much the present constitution

is the product of French political experience. Read in the light of its historical background, the Constitution, with its (to the foreigner) strange provisions and stranger omissions, is quite intelligible. The following discussion by a noted authority on French law and politics throws light upon some of these unusual characteristics. (Joseph Barthélemy, *Précis de Droit Constitutionnel*, pp 31-39)¹

ITS EXTREME BREVITY

Ours is the briefest of all constitutional documents. So many other constitutions are codes, ours is only a "table of contents." It contains twenty-seven articles having constitutional force, which gives them relative permanence, for these provisions cannot be altered save by amendments made by the two chambers meeting in a National Assembly at Versailles. Until 1926 there were only twenty-six articles. To that addition we gave the number twenty-seven. One of the earlier French constitutions contained three hundred seventy-seven articles.

CUSTOM AND THE CONSTITUTION

If the constitutions of the revolutionary period are long, it is because they were built along new lines. It was necessary, then, to state the unwritten principles of the contemporary liberal, democratic régimes. In 1875, however, the framers could refer to and rely upon a long constitutional experience. For example, all the principles of a parliamentary system are fully contained in the words of our constitutional law: "The ministers are responsible to the Chambers." The framers knew what they wanted for, from 1814 to 1848, there had existed a parliamentary system. There are many other important rules which are not even partially written as, for example, the requirement for annual budgets—a provision in all liberal régimes. Hence it appeared unnecessary to state it. Our constitution states only the essential.

Even the written constitution has been modified by custom. For example, the right to dissolve parliament has been a dead letter since 1877. It is customary to oppose the re-election of the chief of state although re-election is permitted by the constitution. The right of the president even after a law has been voted by the

¹ Translated and adapted by the editors. Reprinted by permission of Librairie Dalloz, Paris.

two Assemblies, to "demand a reconsideration which cannot be refused," has never been exercised, nor the right to direct the attention of public opinion to a matter of grave national interest by a message to the country. Even his right to make known his opinion by messages to parliament has fallen into desuetude.

It is difficult to know what is comprised in the custom of the constitution and what has legal force and efficacy. There are authors who believe that custom includes all the higher principles of the public law of free peoples (freedom of thought, of worship, of learning, of work, of commerce and industry, equality before the law, etc.).

LACK OF SYSTEM

The constitutions of the revolutionary period were documents written with style and vigor. The constitution of September 3, 1791, drawn up like a well-made book, had a general introduction which contained the Declaration of the Rights of Man, and a series of chapters arranged with the utmost exactness. It exaggerated method to the point where one had difficulty in acquainting oneself with it. It was divided into titles, the titles into chapters, the chapters into sections and the articles in each section were numbered separately.

By contrast, the three constitutional laws and the two organic laws of 1875 remain as separate as when they were enacted. Nothing unites them. In these scattered texts, not only is there no division into titles or chapters, but there are no distinguishing marks and no exact order. If, for example, one wishes to study the election of the president of France, one looks in article two of the Law of the 25th of February, 1875, to find that he is elected by the Senate and Chamber of Deputies meeting in a National Assembly at Versailles, but to discover the time at which the Chambers hold the elections, one must look in article seven. There was no reason for not having put the date in article two. The powers of the president are contained partly in the law of February 25, 1875, on the organization of the public powers, and partly in the law of July 16, 1875, on the relations of the public powers. There is no allusion in the law of February 25th, to the right of the president to make treaties; it is contained in the law of July 16. The constitution has few articles and they are in confusion. The National Assembly worked hurriedly and it had no taste for its work.

THE SPIRIT OF THE CONSTITUTION

The constitution of 1875 is, in general, a compromise or agreement between a republic and a monarchy. It is a republican constitution awaiting a king. It is so constructed that on the day that a king is called it will only be necessary to modify article two of the Law of February 25th, 1875, to read "The head of the State is the King." This spirit of compromise appears in the following ways:

1 *The Responsibility of the Head of the Republican State*—This is the first time in the constitutional history of France or of foreign countries in which the head of a republican state has not been held responsible to someone. The "irresponsibility" of the head of the state had appeared in France only in the charters of June 3, 1814, and August 14, 1830. Responsibility to the last degree of all representatives and high officials has always been thought an essential principle of a republic.

2 *The Parliamentary System in a Republic*—Likewise this is the first time the parliamentary system has been combined with the republican form of government. The parliamentary system does not exist simply where there is a parliament (i.e., a representative system). The United States, for example, has a representative but not a parliamentary system. The latter is one in which there is a non-responsible head of the state associated with the ministry named by him which is responsible to the legislature. The ministry must be constantly in agreement on all principal matters with a majority of the parliament. This scheme was not produced by the framers of our constitution but by English political experience. Before 1875, it had never existed except in monarchies (England, Holland, Belgium, Italy). Never before had the head of a state, elected by virtue of his political record, consented to forget his political past in order to sit upon a presidential chair where he was no longer directly responsible for his official acts.

3 *Acceptance of the Bi-cameral System*—The republican tradition was that there should be one legislative chamber. This doctrine had triumphed in 1793. It was that of the Republican party under the July monarchy and under the Second Empire. On the contrary the monarchical tradition had established the fact that there should always be two chambers.

4 *The Royal Prerogative of Dissolution to the Chief of the Republican State*—This is the first time in a Republic that the president of the Republic has been given the right to dissolve the Chamber of Deputies. In reality, the right to dissolve is a democratic institution because it permits the people to pronounce judgment. If one does not examine the matter too closely this power of the Chief of State to dismiss, in a body, the elect of the people is a most impressive prerogative. The King did not have it in 1791. The president of the United States, who is supposed to be exceptionally powerful, has never had it. The right to dissolution is an institution of monarchies, adapted for the first time to a republic.

5 *The Compromise in the Upper Chamber*—This spirit of compromise appears each time that it became necessary to find a political solution. The constitution of 1875 adopts a middle course. In the Republican tradition there is only one house, in the monarchical tradition, there are two, but in the monarchical tradition the second house (that is sometimes called the upper house) either is named for life by the chief of state or else possesses an hereditary title, as in the case of the House of Lords, and our own House of Peers of 1814. Or, the members of the second house are named by the King, with a life-long title, as provided in the constitution of 1830 and in the Italian constitution of 1848 (still in force on this point). Marshal MacMahon had desired that the president of the Republic should be able to name the senators or, at least, the seventy-five life members. The constitution of 1875 provides for two houses contrary to the republican tradition, but it also provides contrary to the monarchical tradition, that the upper house shall be elected. This is certainly the spirit of compromise.

6 *The Compromise in the Activity of the Assemblies*—In the activities of the assembly two traditions likewise oppose each other, the republican tradition urges that the houses should be self-directing, that is to say, that the houses decide for themselves when they are to meet. To this republican tradition is opposed the monarchical system of sessions, the houses can only function if they are called by the chief of state. Here the constitution of 1875 adopts another compromise. There is one ordinary mandatory session called the second Tuesday of January with a duration of at least five months, but after this adherence to republican doctrine the monarchical tradition is accepted. When the ordinary session has lasted five months the president of the republic has the right to adjourn the

Chambers He may, at any other time, call the Houses and adjourn them

7 *The Right of Dissolution The Concurring Opinion of the Senate*—The right to dissolve is likewise treated as a compromise In the monarchical tradition (constitutions of 1830 and 1840) the king in his cabinet, advised by his prime minister signs an order to dissolve and the Chambers can be dissolved By contrast, according to the constitution of 1875 the President of the Republic may dissolve the Chamber only with the concurrence of the Senate

8 *The Negotiations of Treaties*—According to the monarchical tradition the King alone makes all the treaties According to the republican tradition the chief of state alone may make no treaty, it is necessary that all treaties be approved by the Chambers Upon this point again the constitution of 1875 adopts a compromise In theory the president alone makes all treaties, but for a series of particularly important treaties he must seek the authorization of the Chambers

9 *The Amending Process*—According to the Revolutionary tradition the amendment of the constitution could only be accomplished through a special assembly with all due form after consultation with the electors In the monarchical tradition (constitutions of 1814, 1830), amendments to the constitutional laws were made by the houses as ordinary legislation After the compromise of 1875 the amendments are now made by both Houses but according to a special procedure

84 AMENDING THE CONSTITUTION

On only three occasions has the Chamber of Deputies met with the Senate at Versailles as a National Assembly for the purpose of amending the Constitution The last occasion was in 1926 Financial problems of postwar France had, in 1924-26, reached a point of crisis To stabilize the franc and to rescue French credit the ministry under M Poincaré proposed to establish a sinking fund which should receive certain revenues (among them a tax on tobacco) and which was only to be used to redeem the outstanding obligations of the French government In order that these funds might not be diverted from this purpose by a subsequent legislative act, the provision for

the sinking fund was made a part of the Constitution. The following extract is a description of the meeting at Versailles. ("Le Congrès pour l'amortissement," *L'Illustration*, Aug 14, 1926, p 146)¹

The Chamber and the Senate met last Tuesday in a National Assembly called by the Government, and voted the solemn constitutional guarantees for the sinking fund which M. Raymond Poincaré had requested. This means that the basis of that fund on which so largely depends the safety of our franc and the preservation of our credit will no longer be menaced by changes in majorities and policies, or by the needs of the Treasury. This precaution was demanded by a distrustful public and, recognized as necessary by the immense majorities of the senators and deputies themselves, the result of the vote requested by the President of the Council was not unforeseen. The method of adopting the law was nevertheless exceptional.

It was unusual that a National Assembly was called to give the law a place in the Constitution. A National Assembly—save when it acts to elect a president—is not seen every five years, nor even every twenty years. Before and since the elections of last May, a National Assembly has been urgently demanded and for various reasons. Some wanted one to revise the Constitution in order to enlarge the executive power. Others planned a meeting at Versailles to wipe out the Senate, and still others in order to change the republican regime, in spite of the constitutional law which was voted especially in the preceding assembly of 1884 for the purpose of forbidding the consideration of any amendments aimed at destroying the republic . . .

The members came in throngs, most of them a little excited by the opportunity of participating in a National Assembly—a thing which does not occur in every legislature. Many had returned hurriedly from their constituencies the same morning. They arrived carrying packages or valises under their arms, where might be found—useful for every eventuality—(for one does not know when it will be necessary to sleep at Versailles) a nightshirt and toilet articles. There were many who had determined to play a helpful or a hundering role in this unusual meeting. If opportunity had been given for speeches there would have been twenty, a hundred

¹ Translated by the editors. Reprinted by permission of *L'Illustration*, Paris.

But those who wished to speak were watched over by others who were determined to prevent their speaking. The majority decided that only those oratorical efforts should be tolerated which did not exceed a quarter of an hour.

M. Poincaré arrives, gets out of his car, alone, with no ceremony, in business suit and straw hat, as if he had just come from an ordinary walk in the suburb. The members of parliament press around him as soon as he appears before the photographers. The same sudden thronging takes place when M. Briand arrives. The reception of the other ministers is less boisterous. After that there is no longer any excitement when former ministers arrive one after another. The photographers are busy. They choose their subjects. Members who are not chosen do not always hide their disappointment.

Quite a number of women, but without much attention to elegance and with no illusions as to the quality of the spectacle to which they have invited themselves, take their places in the public galleries. There is very little excitement, nothing of the brilliant affluence of the opening of a presidential election.

Nine-thirty, and the hall of the Assembly is overflowing and already noisy. The officers of the Senate are, according to the Constitution, to be the officers of the National Assembly. Under the historic picture which portrays the Estates-General meeting in 1789, M. Selnes appeared, a figure in black and white, tufts of hair on the sides of his bald head, his mustaches bristling and his vest white as snow. The official president is greeted by the howls of the Extreme Left. Waving a thin ruler rhythmically as if he were the director of a fearsome orchestra, the venerable M. Selnes actually gives that impression by his attitude and gestures. The daily papers have said the few things there were to say about this tumult and about the obstructionary tactics on the part of the communists and some of the Socialists.

The Assembly decides very wisely upon the motion of M. Morinaud to limit the length of the speeches and the number of orators. They also come, although not without interruption to the nomination of a commission of 30 members to examine and report upon the text of the proposed constitutional law.

The discussion in the session upon this article may be summarized in two speeches, one by M. Léon Blum upholding the superiority of the Socialist proposal of a capital levy; and the

answer of M. Poincaré pointing out the unknown dangers and the illusory and impractical character of the method outlined by M. Blum and his friends

The scandalous tumult provoked by the Extreme Left that made necessary the expulsion of M. Dorio did not reduce the enormous majority in favor of the government's proposal and the insertion in our constitutional laws of the organic act of the sinking fund was voted by 671 to 144. It was a well-managed piece of parliamentary work

85 PROPOSALS FOR CONSTITUTIONAL REFORM

In 1934, Gaston Doumergue, former President of the Republic, was called out of retirement to lead a new cabinet constructed to promote confidence in French stability in the face of the wave of unfriendly criticism which followed the Stavisky scandal of 1933, in which many government officials were implicated. Doumergue addressed the nation by radio, announcing a plan for constitutional reform. His plan involved the four proposed constitutional amendments given below. The Council of Ministers approved the proposals on November 3, 1934, and they were presented to the Chamber for discussion. Although a great deal of interest was expressed throughout the country, the National Assembly was not convoked to consider the proposals and consequently they were not adopted. It is not improbable that some or all of the suggestions may come up for action at a future date (*L'Europe Nouvelle*, XVII, 1934, 1117) ¹

(1) To insert in the first part of article 6 of the law of February 25, 1875, the following paragraph

"The number of ministers may not exceed twenty, excluding the president of the council, who is prime minister without portfolio"

(2) To substitute for the first paragraph of article 5 of the law of February 25, 1875, the following provisions

¹ Translated by the editors. Reprinted by permission of *L'Europe Nouvelle*, Paris

"The president of the Republic may dissolve the Chamber of Deputies before the expiration of its legal term

"During the first year of that term, the dissolution may be proclaimed only on the advice of the Senate

"During the remaining years, the president of the Republic may dissolve the Chamber without the advice of the Senate"

(3) To complete article 4 of the law of February 25, 1875, by the following provisions

"The state assures to the members of the civil service permanent employment and the guarantee of a career.

"Any unjustifiable or collective cessation of service will entail a termination of the tie which unites them to the state"

(4) To complete article 8 of the law of February 24, 1875, by the following articles

"Except on the initiative of the government, no proposal for expenditure is acceptable unless it is preceded by a vote in both Chambers for additional revenue to cover it

"When the budget has not been voted by the two Chambers before the first of January of the year to which it applies, the President of the Republic may extend, for all or part of the year, by decree issued by the Council of State, the budget of the preceding year"

CHAPTER XIII

THE FRENCH PRESIDENT

86 THE RE-ELECTION OF PRESIDENT LEBRUN

THE election of a French president is an event of national interest and importance, although it is not attended by the same excitement that marks the American process of popular election. Because the president is selected by the members of the Senate and the Chamber of Deputies meeting in a National Assembly at Versailles, there is none of the campaigning that would accompany nomination or election of candidates by popular vote. The president of the Senate opens the National Assembly as its presiding officer and serves in that capacity throughout the session unless, as is often true, the balloting results in his selection as the President of the Republic, in which case the vice-president of the Senate announces the result and concludes the meeting. No nominating speeches are given during the session, the balloting being the main occupation of the group. There is, of course, a great deal of discussion of the question of a new incumbent prior to the convening of the National Assembly, and the names of leading candidates are generally known.

M. Lebrun became the President of the Republic in 1932, when the National Assembly elected him on the first ballot by a heavy majority. He filled the office very satisfactorily for

a complete term. As his term drew to a close it was clear that he would be a strong candidate to succeed himself. Only one president of France had ever been re-elected, Jules Grévy in 1885. Lebrun broke the strong tradition against second terms by his re-election in April, 1939. The following account describes typical election procedures (*Journal Officiel*, April 6, 1939. Translated by the editors.)

JULES JEANNENEY, PRESIDENT OF THE NATIONAL ASSEMBLY

At 2 P M, M. Jules Jeanneney, president of the Senate, entered the chamber, accompanied by MM. Dentu, Achille Naudin, Decroze, Bertrand Carrère, Hachette, A. de la Grange, Garrigon, Gros, secretaries of the Senate. (Taking his place as the presiding officer, the president was greeted with loud and prolonged applause.) The secretaries took their places at the desk next to the president [of the National Assembly].

THE OPENING OF THE NATIONAL ASSEMBLY

The PRESIDENT [of the National Assembly]. The session is open. Members of the National Assembly, in accordance with article 2 of the constitutional law of February 25, 1875, which reads as follows:

"The President of the Republic is elected by absolute majority of the votes of the Senate and Chamber of Deputies meeting jointly in National Assembly. He is elected for seven years. He is eligible for re-election",

In view of the action of the National Assembly on May 10, 1932, resulting in the proclamation of M. Albert Lebrun as President of the Republic for seven years,

In view of paragraph 1 of article 3 of the constitutional law of July 10, 1875, as follows.

"One month at least before the expiration of the term of the President of the Republic, the chambers meeting jointly in the National Assembly shall proceed to the election of the new President",

In view of the decree of March 10, 1939, providing that "on April 5, 1939, the Senate and the Chamber of Deputies shall meet in National Assembly to proceed with the election of the President of the Republic",

In view of paragraph 2 of article 11 of the constitutional law of July 16, 1875, as follows

"When the two chambers meet in National Assembly their officers shall include the president, vice-president and the secretaries of the Senate"

I hereby declare the National Assembly in session

ABSENCES

The PRESIDENT [of the National Assembly] MM Alfred Daul, Decroze, Louis Gelis and André Morizel offer their excuses for being unable to be present at the session

BALLOTING FOR THE ELECTION OF THE PRESIDENT OF THE REPUBLIC

The PRESIDENT [of the National Assembly] We proceed to the election of the President of the Republic The voting will be at the tribune, with the reading of the names Before proceeding with the names, I shall select by lot the thirty-six tellers and the twelve substitute tellers to count the ballots

(This was done By lot thirty-six tellers were selected to work at twelve tables, as designated Twelve substitute tellers were also chosen)

The PRESIDENT [of the National Assembly] I shall draw by lot the letter from which the names of members will be called alphabetically (By lot the letter I is selected) The balloting is opened

(The balloting was begun at 2 10 P M The voting took place at the tribune It proceeded as the names of the members were called)

The PRESIDENT [of the National Assembly] The reading of the names is completed Does any one ask to vote? The ballot is closed Will the tellers retire to the room designated for the counting of the ballots The session will be suspended during that operation.

(The session, suspended at 4 20 P M, was resumed at 5 20 P M)

The PRESIDENT [of the National Assembly] The session is resumed

(The members of the National Assembly greet its president with loud applause)

The PRESIDENT [of the National Assembly] I have the honor

to announce to the National Assembly the result of the vote for President of the Republic

Number of votes	910
Spoiled ballots	6
Actual ballots	904
Absolute majority	453

Votes obtained

M. Albert Lebrun	506
------------------	-----

(Loud, prolonged applause from the center, right, and sections of the left. At the extreme right "Overrule it! Overrule it!")

The PRESIDENT [of the National Assembly]

MM. Albert Bedonce	151
Marcel Cachin	74
Edouard Herriot	53
Justin Godart	50
Fernand Bouisson	16
François Piétri	10

Scattered	44
-----------	----

The PRESIDENT [of the National Assembly]: Because he has obtained an absolute majority of votes, I proclaim M. Albert Lebrun President of the Republic for seven years, beginning on the day following his present term.

(From the extreme left "Overrule it!")

(Members of the National Assembly from the right, center and left rise and applaud.)

(From the extreme left "Overrule it!")

(From the center and right "To Moscow!")

THE CLOSING OF THE SESSION

The PRESIDENT [of the National Assembly]: The session of the National Assembly is closed. One of the secretaries will read the minutes of the present session.

(M. Dentu, one of the secretaries, read the minutes.)

The PRESIDENT [of the National Assembly]: Are there any remarks relating to the minutes? The minutes are adopted. The session will adjourn.

(Adjournment was at 5 25 P. M.)

87. THE ROLE OF THE PRESIDENT

Sir Henry Maine once wrote that the king of England reigned but did not govern, the president of the United States governed but did not reign, while it was reserved to the president of France neither to govern nor to reign. But this clever description is likely to leave the impression that the president of France is not an important political figure and that his role is not a vital one in French government. The following article by an English student of French politics reviews the presidency of M. Gaston Doumergue and points out why the presidency of France is a difficult office to fill and what talents are demanded of the occupant. (Josselyn Hennessy, "The Role of the French President," *The Fortnightly Review*, CXXXV, June, 1931, 776-84) ¹

There is astonishingly complete agreement in France—the country of bitter political disagreements—that the President who retires on June 13th is one of the two greatest Presidents of the Third Republic. It is interesting for the friendly foreign observer to seek the reasons for this verdict. What do the French ask of their President?

First of all they want the President to preside. His role in no way corresponds, for example, to that of the President of the United States. The American President is the head of his party, while any personal policy that he may force on Congress may be considered to be endorsed by his election on direct mandate from the people. The French Constitution on the contrary envisages the people's mandate as held by a Prime Minister responsible to the popularly elected Chamber of Deputies. The President is the permanent Chairman for seven years of the Cabinet Council meetings, his duty is to summon members of Parliament to form governments (which in the kaleidoscopic changes of French politics is a by no means unimportant responsibility), and he is the non-party symbol of the unity of the State's interests. M. André Siegfried acutely observes that those Presidents who, like Millerand, have taken office with the intention of directing affairs have always failed

¹ Reprinted by permission of *The Fortnightly Review*, London.

Brought face to face with the expression of the popular will through the Prime Minister of the day responsible to parliament, they have had to resign or content themselves with merely giving their advice and then watching events take their course. On the other hand, those who had had previous experience in presiding over the Senate or Chamber of Deputies succeeded, and it is probable that they could have been re-elected if they had chosen to stand. Loubet, Fallières and Doumergue presided over the Senate and Jules Grévy over the National Assembly and the Chamber of Deputies before reaching the Presidency. This demand that the President should preside is really equivalent to a demand to preserve the Constitution of the Third Republic.

So much for the official side of the President's task. Whether he is to be personally popular or not depends on a curious mixture of characteristics. Certainly the French republican likes the President to be simple and unpretentious—the antithesis, shall we say, of the late Lord Curzon. Yet in the ideal President this simplicity of manner and tastes is combined with great political subtlety. While generally despising the intrigues of parliamentary life, the average Frenchman loves to see the parliamentary game played with *finesse*. He revels in watching a clever move by which a politician makes his opponents look ridiculous. Mr. Winston Churchill or Mr. Lloyd George would be greatly appreciated in the Chamber of Deputies, whereas Mr. Baldwin or Lord Brentford would probably be considered politically obtuse in France. I imply no reproach to any one in these comparisons, I only wish to suggest that the French appreciate the technique of the game, as much as the results that may be obtained from it.

In all these respects Gaston Doumergue was the ideal French President come to life . . .

On June 13th, seven years ago he was elected. In a voice which revealed his profound emotion M. Doumergue replied to the speech of welcome made by the Prime Minister in the National Assembly. The words which he used to outline his conception of the duties of his great office have become memorable and his conduct as President has left the fine example of a man who lived up to his promises. He said:

"I hope that I shall not disappoint the confidence which the National Assembly has reposed in me. In order to justify this confidence, the Assembly may be assured that none will be more

respectful of the Constitution than I, none will remain more above parties than I, in order to be impartial arbitrator between them, and that I will take my inspiration from the wishes of Parliament—the expression of the National sovereignty ”

Does it follow then that the President must be a constitutional puppet? Two things are certain a man of Napoleonic temperament is not wanted, and mediocrity can fulfill the rôle without visible damage to the state. Millerand's action in pulling the presidency into the partisan arena, and his consequent humiliating dismissal left the prestige of the office at a low ebb, had a mediocrity succeeded him it is likely that its prestige would have been permanently damaged, and the answers to the two opening questions of this paragraph a simple “Yes.” But Doumergue is no mediocrity, and his fine statesmanship, completely within the scope allowed, has by recalling the presidency to its proper functions restored its prestige to the level at which Jules Grévy left it in 1887.

Of his statesmanship M. André Siegfried acutely observes “ we can clearly see to-day that without M. Doumergue's subtle and patient political game in 1924-1926 the great Poincaré cabinet which saved the franc and France would not have been possible. M. Poincaré could not have taken over power in 1926 and could not have gathered the almost unanimous votes of a chamber which had been unwilling to support him only two months earlier, if M. Doumergue's series of astute steps—perfectly legal and legitimate—had not proved that any other combination was impossible ”

The present prestige of the office inspired a statesman of M. Briand's calibre with the hope of continuing his work for European peace from the Elysée. If he had won, his powers of persuasion, tact, the continuity of office and his knowledge of foreign affairs which none of his ministers could have hoped to rival, would have made him a formidable factor in the counsels of Europe. His defeat, however, suggests one more qualification possessed by M. Doumergue, he had not made himself the leading exponent of an outstanding and strongly differentiated policy during his political career, which would have incurred the suspicion of partiality in a position which is required to be above party.

To sum up, therefore, we may say that if a presidential mediocrity can do no harm, a presidential statesman who respects the constitution, is an astute politician, and has an unpretentious man-

ner, earns the admiration and affection of the most difficult political public in the world. Such was Gaston Doumergue.

88 THE PRESIDENT AND POLITICS

Although the president of France may by his influence assist in the determination of government policies, he is expected to abstain from partisan activities. So long as he does this his tenure is secure for the term of seven years for which he was elected. If a president ventures to engage in partisan activities he runs a risk of meeting with parliamentary opposition which may reach the point of demanding the president's resignation.

Alexandre Millerand was elected president on February 18, 1920. Having conservative leanings and possessing an aggressive personality, he found it natural to work in a partisan manner with the National Bloc under Prime Minister Poincaré. When Poincaré was defeated in 1924, some of the Left parties adopted resolutions demanding Millerand's resignation and refusing to co-operate in any ministry formed under his presidency. Millerand selected François-Marsal as a new prime minister, but the Chamber refused to give him a vote of confidence. Consequently, President Millerand resigned on June 11, 1924. Below are the party resolutions against the president, and Millerand's appeal to the Chamber for support. (W. S. Davis, "France and Belgium," *Current History*, XX, July, 1924, 676-77.)¹

Radical Republican and Radical Socialist resolution

The group of Deputies who are members of the Radical Republican and Radical Socialist Parties, considering that Alexandre Millerand, contrary to the spirit of the Constitution, took a personal part in politics;

That he only sided with the National Bloc;

That the National Bloc has been condemned by the country;

Thinks that maintenance at the Élysée of Alexandre Millerand wounds the Republican conscience and will be a source of

¹ Reprinted by permission of *Current History*, New York

incessant conflicts between the Government and the Chief of State and a constant danger to the Republican régime itself

Republican Socialist resolution

It is impossible to conceive of the slightest collaboration with M. Millerand, who has misunderstood the duty of his office in assuming the direction of foreign and domestic policies in a sense condemned by the country

Unified Socialist resolution

Our Parliamentary group receives instructions to oppose any Government which agrees to constitute itself and act under M. Millerand

In case M. Millerand, persisting in his obstinacy, finds a Parliamentary accomplice outside the majority of the 11th of May to assume the responsibility of violating or deforming the decision of universal suffrage, the permanent Administrative Commission and the Parliamentary group are instructed to engage immediately, with the aid of all federations of the party, in a campaign of agitation destined to force respect for the wishes of the country.

President Millerand's message to Parliament

When the National Assembly did me the honor to call me by 685 votes to the supreme magistrature it knew by my public statements that I would only consent to go to the Elysée Palace to defend a national policy of social progress, ordered labor and union

The solemn engagement I took before the country I have kept. France is athirst for peace, labor and concord. She wants a foreign policy which, in accord with the Allies, will assure her security, reparation, application of the Versailles Treaty and respect of all the diplomatic acts which have instituted the new European order

This external policy calls for an interior policy inspired by the teachings of the war, founded on an agreement between Frenchmen, respect for opinions and faiths, care to introduce always more equity and generosity into social relations, and determination to safeguard France's credit by maintaining a rigorous balance between expenditures and the public income

Those ideas have always directed my action, they will continue to guide it. By stipulating that the President of the Republic is responsible to the Parliament only in the case of high treason, the

Constitution willed that for the national interest of stability and continuity, the Presidential power should be kept sheltered from political fluctuations

You will respect the Constitution. If you misinterpret it, if it were to be henceforth understood that the arbitrary action of the majority could oblige the President of the Republic to retire for political motives, the President would be no more than a toy in the parties' hands.

CHAPTER XIV

THE CABINET AND THE
ADMINISTRATIVE SYSTEM

89 "MONSIEUR LE PREMIER"

THE prime minister in England possesses more authority over his cabinet colleagues and over parliament than does the premier of France. The former can command or threaten where the latter must convince and persuade. A premier of France must use political finesse rather than official authority to gain his point. The result is to make the work and qualifications of a French premier different from those of a British prime minister. The following account of the work of the premier brings out the importance of these differences ("Monsieur le Premier," *Les Annales politiques et littéraires*, May 25, 1924, pp. 569-70.)¹

At the hour these lines are being printed, the new Chamber has not yet taken office and the head of the future government has not been designated. Who he will be or what he will do, I do not know. I wish to consider here only his duties.

Nowhere does there exist a heavier or a more difficult task. At the present time, a president of the Council, in order to acquit himself of his multiple duties and to face the responsibilities which weigh upon him, must possess a rare amount of mental en-

¹ Translated and adapted by the editors. Reprinted by permission of *Les Annales politiques et littéraires*, Paris.

ergy and physical resistance The exercise of power is a tremendous burden. We have seen M Raymond Poincaré at work The tasks he accomplished, especially during the past months, almost exceeded human strength. . . .

In the first place, with regard to domestic and foreign affairs, the premier almost alone creates the policy which he has the responsibility for applying In vain he surrounds himself with intelligent and earnest collaborators, it is to him that everything is taken, it is he whom everything concerns, and if mistakes are made, it is he who, not having known how to foresee them, must repair them or make amends for them But what we call a "mistake" is debatable perhaps, since no act, meditated or executed, ever secures unanimous approval The reception accorded to any action arises from the most diverse causes The people, when called upon to approve or censure an act, frequently obey hidden sentiments which they do not always confess There is the attachment to principles There are sometimes selfish interests, collective or individual The members of parliament are bound by their electoral promises, by the discipline of party They group themselves or divide according to the issue These divergences which burst publicly in the Palais-Bourbon or the Luxembourg, manifest themselves only a little less forcefully in the heart of the cabinet The premier endeavors to evade them, to compose them, to smooth over the daily difficulties His life is an incessant struggle He defends himself against open enemies and artful enemies He fights great battles in full view and smaller encounters in secret. He undergoes violent assaults, and at the same time avoids traps scattered under his feet He has friends who are dangerous because they are hard to please and because he is obliged to show his gratitude to them Loyal and honest, inaccessible to suspicious compromises, he must, nevertheless, reconcile certain practical necessities with the firmness of his line of conduct and his scruples of conscience

To the careful attention which this internal strategy demands, is added, when the president of the Council directs foreign affairs, the labor of high diplomacy He negotiates treaties, receives and sends ambassadors He plans conferences in which he is to play the leading part He watches the players engaged upon the chess board of the world to which he cannot be indifferent For the co-ordination and the timing of strategic matters, for making decisions and for making and conceiving and submitting plans to the members

of the government, no one can take his place. It is his work in these affairs which testifies to the clearness of his vision, the sureness of his judgment, the tact and the delicacy of his spirit, his authority, his genius.

Do you see the combination of innate gifts and acquired talents with which "Monsieur le Premier" will perhaps reach the end of his task—I say perhaps, for success is never assured—but without which he is, in advance, dedicating himself to failure? He has no chance of continuing in office and of attaining his goal if the gods have not placed in his character certain indispensable but rarely united traits: energy and adaptability, a tenacity which is not a blind stubbornness, ardor and sang-froid, persuasive eloquence; a great deal of memory and a great deal of intuition, that sixth sense which chosen people carry in them, that clairvoyant and good counselling instinct, psychological penetration, and conviction, which is the mother of forceful actions slowly matured and patiently pursued.

And the ideal premier must have, along with these intellectual qualities, a physical vigor which permits him to use them fully. Indulgences of physical weakness are as much prohibited to him as are those of the spirit. If he is not made of iron, he will be quickly worn out and exhausted. Here, according to recent information from a reliable source, is the program of one of his working days.

He rises at dawn, collects his thoughts in the early morning solitude, writes his special letters, muses over questions which, every hour, will be submitted to him, and the answers which he will have to give. At eight-thirty, he arrives at the Quai d'Orsay, where the members of his cabinet await him, a little dismayed at the speed of their chief. First, there is the examination of current affairs. Then, when there is no cabinet meeting, commence the visits, some of which are essential and a great number of which are useless. From the latter, Monsieur le Premier protects himself as much as possible, but very insufficiently. Next, time pressing, he lunches in ten minutes because the afternoon will be taken up by laborious and stormy debates.

Ten interpellations must be written for the Chamber. From three o'clock until seven, he hears them, attentive and courteous but prompt at parrying, he is always watching for attacks by the opposition who harass him and try to force out of him an ill-chosen

word When he takes the stand in his own defense, the opposition redoubles its fury, organizes systematic obstruction, draws out the debate At critical times, there is a night session Monsieur le Premier, after a brief recess, returns to occupy his little seat . The session may continue to the next day . Never does he know repose, and he relaxes only at rare moments of the year when the deputies, his tyrannical masters, are vacationing He is the target constantly exposed to arrows sharpened or poisoned by political hatred and by personal rancors

Nevertheless, in spite of the storms, a certain compensation is his When the head of the State has been sincere, when he has battled valiantly, when he has, as well as he could, defended his country, placed at its service a powerful intellect and a great heart, upheld the cause of truth and justice, when he has been a soldier of his country, he carries away, when being removed, the esteem of his victorious adversaries. Every one, I wish to say, accords to M Raymond Poincaré, for his prodigious efforts of two years, this homage of admiration and, for the integrity of his life, this homage of respect

90 THE PERSONNEL OF FRENCH CABINETS

The following scholarly study of the ministers who have made up the cabinets of France since the foundation of the Republic brings to light much information about their training, experience, and personal qualifications (John G. Heinberg, "The Personnel of French Cabinets, 1871-1930," *American Political Science Review*, XXV, May, 1931, 389-96)¹

From the election of the National Assembly in February, 1871, to the fall of the Briand cabinet in October, 1929, France had eighty-two cabinets and 349 cabinet ministers, under-secretaries excluded Although French ministers ordinarily neither wield the power of English ministers nor leave behind them a deep impression upon governmental policy, they nevertheless constitute, ensemble, the governing class of the nation Every deputy and sena-

¹ Reprinted by permission of *American Political Science Review* A supplementary study of the personnel of French cabinets was recently published by the same author, entitled "The Personnel Structure of French Cabinets," *American Political Science Review*, XXXIII, April, 1939, 267-79

tor looks forward to the day when he can inscribe the words *ancien ministre* after his name. Of the 349 who have held a *portefeuille*, 110 are still living. They constitute a large field for selection whenever a new cabinet is formed, and it is seldom necessary—or even advisable—for an incoming premier to go far outside their ranks in making up a new list for the approval of the president of the Republic.

What type of Frenchman has risen to the ministry under the Third Republic? Whence does he come? What has been his education, his occupation, his previous political experience? If there has been a "type," has it changed as the Third Republic has come to be more and more firmly established? Do the heads of certain ministries depart from the general type? Are there personalities that demand special attention and study? These are some of the questions that arise concerning the political personnel, not only of French, but of other modern national governments.

The place of birth of a Frenchman apparently neither increases nor decreases his chance of becoming a minister. Of the 349, all but twenty were born in France. Fifty-two are credited to the department of the Seine, twelve departments were the birthplace of seven or more, and only seven departments have been ministerially sterile. Upon eight of the ministers, no information is available as to birthplace, and of the remaining twelve, six were born in the French colonies of Algeria, Réunion, and Corsica, two in Geneva, and one each in the United States, Cuba, Holland, and Egypt. All that can be said is that every quarter of France has been represented in the successive cabinets, on a basis roughly proportionate to population.

The tables on education and occupation, however, are very revealing. Of the 294 upon whom educational information is available, 261 were educated with the *Facultés de Droit*, at the *École Navale*, *Saint-Cyr*, *Facultés de Médecine*, or the *École Normale Supérieure*—educated, that is to say, to become lawyers, naval officers, army officers, engineers, physicians, or professors. Of the 303 upon whom information regarding occupation is available, 258 were by occupation lawyers, army officers, professors, lawyer-journalists, naval officers, engineers, journalists, publicists, lawyer-publicists, physicians, professor-journalists, or publicist-professors. The most important conclusion that emerges from these figures is that the French governing personnel comes from among those of the

people who by education and occupation belong to the professional classes. And if the fact that education beyond the elementary schools is not free, plus the consideration of the ability to withdraw from gainful occupation and acquire a university education, are at all indicative, it might also be said that the governing class comes from the middle or more wealthy part of the bourgeoisie. There are a few examples, like Paul Bert, of poor boys "working their way", but their number is very small. The overwhelming majority of French cabinet ministers have been university-trained men. With only very few exceptions, they have been educated in French schools and universities.

Passing to the political experience of ministers prior to their entrance into cabinets, we find that at least 226 of the 349 had previously held either local political offices, administrative positions, or both. Forty-five additional ones have been non-parliamentarians while minister, making a total of 271. Thus, over three-fourths of French cabinet members have been grounded in either or both local politics and administration, or have possessed what was regarded as special fitness upon their entrance into the cabinet. The great majority of the non-parliamentarians were generals of division or vice-admirals, chosen to be ministers of war or ministers of marine.

The figures on the status of individuals at the time of their appointment to cabinet posts reveal nothing unusual or unexpected. The great majority have been members of the Chamber of Deputies. A total of 48 have held office while non-parliamentarians, but three of these held additional terms in the ministry while deputy or senator. Of the 45 who were non-parliamentarians during their entire tenure as minister, 35 were generals of division or vice-admirals. They held the portfolios of war or marine.

Several conclusions, seemingly, can be drawn regarding the type of Frenchman that rises to positions in the governing class under the Third Republic. France is governed by the professional classes, and, more specifically, by professional politicians within that class. Special fitness has played some, though a small, part in selections. It has operated mainly in the cases of ministers of war and marine. Finally, the overturn of ministries, whose average tenure under the Third Republic has been eight and one-half months, is of no significance so far as the type of men in office is concerned. It has long been recognized that succeeding cabinets in France usually

contain a number of members of preceding cabinets. But even the new members are essentially of the same type of men, so far as education, and previous political experience are concerned.

A gradual, but marked, change may be observed in the type of men who have risen to the ministry during the past fifty years, by comparing the statistics on dead and living ministers in the tables above. As far as education and occupation are concerned, the percentage of lawyers and professors is increasing. Army and navy officers are being eliminated, and there has been a great decline in the percentage of engineers and physicians. Non-parliamentarians show a greatly reduced percentage, being 40 among the 239 dead and only five among the 110 living. Since, and perhaps by reason of, the tenure of De Freycinet, an engineer, as minister of war, army and navy career men have been largely supplanted by engineers, lawyers, journalists, and professors as heads of the ministries of war and marine. Only one-fifth of the living ministers have that background, while only one-fourth of the 239 deceased were so fortified. Table IV also reveals that in addition to a greatly reduced number of non-parliamentarians among the living, the percentages of those who were deputies at the time of their appointment to cabinet posts has shown a marked increase.

These facts suggest that the professional elements from which France draws its governing class are narrowing to lawyers, professors, journalists, and publicists. Engineers, physicians, and army and navy officers are being displaced. The political class within the professional class is also narrowing in the direction of those who are grounded in previous experience in local politics or administration, and chiefly in administration. Ministers also tend, more and more, to be selected from the Chamber of Deputies.

Special conclusions seem warranted in the cases of some ministers, although nothing of great significance is revealed in the statistics on the premiers. During thirty of the eighty-two terms, the premier has held the portfolio of foreign affairs, during twenty, that of minister of interior, ten, that, of justice, five, that of finance, and he has been without portfolio during four terms.

Among the ministries, those of justice and interior appear to be of greatest political significance. First, because the number of individuals who have held these positions is in each case larger than the number of those who have held any of the four other important portfolios, second, because the individuals who have held

TABLE V
The Premiers

Total terms	82	Occupation	
Total number of individuals	40		
Individual tenure		Lawyer	12
One term	24	Lawyer-journalist	6
More than one term	16	Professor	5
<i>Education</i>		Journalist	4
<i>Faculté de Droit</i>	24	Army officer	2
<i>École Normale Supérieure</i>	4	Law and letters	2
<i>Saint Cyr</i>	22	Archaeologist	1
<i>École Polytechnique</i>	2	Engineer	1
<i>Faculté de Médecine</i>	2	Lawyer-publicist	1
<i>Cambridge</i>	1	Banker	1
<i>Collège</i>	1	No information	5
<i>University</i>	1		
<i>École d'Administration</i>	1	Previous Political Experience	
<i>Faculté des Lettres</i>	1	Administrative	7
No information	1	Administrative and local politics	3
		Local politics	15
		Neither	15

only one term is greater than among any of the other four. The positions of minister of justice and minister of war have demanded most in the way of technical training. Of 45 ministers of justice upon whom information is available, all have been educated in law. Of 40 ministers of war about whom we have information, 29 have been educated at Saint-Cyr or the École Polytechnique. Only 18 of the 48 ministers of marine received their training at the École Navale. Law-trained individuals have predominated in the ministries of foreign affairs, interior, and finance.

The foregoing has dealt with the type of men that the French political machine has raised to the governing class. An intensive study of the careers of the important individuals would provide a basis for generalizations as to why and how this is done. But a combination of several factors must determine those selected for such special attention. The figures in Table VI indicate that a line might conveniently be drawn to include those who have served five terms or more. Selection upon this basis, however, would eliminate such men as Clemenceau, Combes, Méline, and Waldeck-Rousseau, each of whom had a term of over two years as *président du*

conseil Clemenceau had two such terms. Certainly no man who can pilot a French cabinet for two years can be overlooked. Nor can certain factors be disregarded in explanation of how a deputy or senator, with perhaps a similar background to his colleagues, manages to continue his political journey beyond them to the *Quai d'Orsay*. Some of these are (1) his membership and good work on one or more of the parliamentary commissions, (2) his rise to a place of great esteem within his parliamentary group, (3) his friendship and influence with the president of the republic, (4) his possession (or his wife's possession) of a personal fortune, and his ability to provide dinners, conversation, and entertainment, and (5) the extent of his friendship with journalists.

91. CABINET INSTABILITY

A characteristic feature of parliamentary government in France is the instability of cabinets. During the course of a speech made in London, Will Rogers once humorously remarked that he had just seen the daily changing of the guard and was about to cross the Channel and watch the French change cabinets. Chief among the conditions producing this instability is the multiparty system which necessitates coalition cabinets. Because the cabinet contains representatives of diverse groups, it is difficult to procure the unanimity required for effective action.

Some differences of opinion are expressed as to the effects of instability. The fact that a new cabinet often contains many of the ministers from the preceding cabinet, perhaps including even the prime minister, usually prevents disastrous reversals of policy. There have been occasions, however, when the fall of a ministry has been most embarrassing to the country. For instance, during the London Disarmament Conference of 1930, a French cabinet crisis delayed conference action for some time pending the establishment of a new ministry. Germany's annexation of Austria in 1938 came at a time when the French government was impotent because of cabinet controversies. The development of continuous governmental

policies is at all times subject to political uncertainties which can become dangerous to the national safety

No proof of instability could be more convincing than a list of ministries which have held office under the present constitution. Few cabinets have lasted for a year or more. Many have been forced to resign after a few days. In the following charts are several instances of a reshuffling of the cabinet after a defeat, with the prime minister himself returning to power.

A THE VIEWS OF M. DOUMERGUE ON CABINET INSTABILITY

(Speech by M. Doumergue to the French people, September 24, 1934, *L'Europe Nouvelle*, XVII, 1934, 1054) ¹

In our country the governments have no assurance of tenure. They do not have a homogeneous majority, for there are too many parties. They may be defeated by a "yes" or by a "no," without any harm coming to those who defeated them for the sport of a massacre.

You have seen, and foreigners have also observed, what has happened in our country during the twenty months which have intervened between the time when the Chamber (elected in 1932) began to sit and the sixth of February last (1934).

During those twenty months, six governments—one for every quarter year—have succeeded each other in power. The head of the state has been obliged to sign, during that short period, 163 decrees appointing ministers and undersecretaries of state.

The governments may have among them men of ability, but it is known in advance that there will not be time to give those men an opportunity to prove themselves, for the majority on which they lean may not be able to continue . . .

What authority can such short-lived governments have to govern at home or to negotiate abroad?

B THE DURATION OF FRENCH MINISTRIES

(R. de Beauplan, "99 Cabinets en 65 Ans," *L'Illustration*, CXCI, 1936, 436-37.) ²

¹ Translated by the editors. Reprinted by permission of *L'Europe Nouvelle*, Paris.

² Translated by the editors. Reprinted by permission of *L'Illustration*, Paris.

THE DURATION OF MINISTRIES IN FRANCE

		1 yr	2 yrs	3 yrs			1 yr	2 yrs	3 yrs
1	Dufaure (I) Feb 19, 1871-Mar 18 1873			2 yrs. 3 mos	26	Charles Floquet Apr 3, 1888-Feb 22 1889			11 mos
2	Dufaure (II) Mar 18 25 1873			7 dys	27	Tirard (II) Feb 22 1889-Mar 17 1890			1 yr 1 mo
3	de Broglie (I) Mar 25-Nov 26 1873			6 mos	28	de Freycinet (IV) Mar 17, 1890 Feb 27, 1892			1 yr 11 mos
4	de Broglie (II) Nov 26, 1873-May 22 1874			6 mos	29	Loubet Feb 27-Dec 6 1892			9 mos
5	de Clissey May 22 1874 Mar 10, 1875			10 mos	30	Ribot (I) Dec 6 1892-Jan 11, 1893			1 mo
6	Buffet Mar 10, 1875-Feb 23 1876			11 mos	31	Ribot (II) Jan 11-Apr 14 1893			3 mos
7	Dufaure (III) Feb 23 Mar 9 1876			15 dys	32	Charles Dupuy (I) Apr 4 Dec. 3 1893			8 mos
8	Dufaure (IV) Mar 9 Dec 12 1876			9 mos	33	Casimir Périer Dec 3 1893 May 30 1894			6 mos
9	Jules Simon Dec 12 1876-Mar 17, 1877			5 mos	34	Charles Dupuy (II) May 30 July 1, 1894			1 mo
10	de Broglie (III) Mar 17 Nov 23, 1877			6 mos	35	Charles Dupuy (III) July 1 1894-Jan 26, 1895			7 mos
11	de Rochebouet Nov 23-Dec 13, 1877			20 dys	36	Ribot (III) Jan 26 Nov 1 1895			9 mos
12	Dufaure (V) Dec 13, 1877-Feb 4 1879			1 yr 2 mos	37	Léon Bourgeois Nov 1, 1895 Apr 29, 1896			6 mos
13	Waddington Feb 4-Dec. 28, 1879			11 mos	38	Méline Apr 29, 1896 June 28, 1898			2 yrs 2 mos
14	de Freycinet (I) Dec 28, 1879-Sept 23, 1880			9 mos	39	Henri Brisson (II) June 28-Nov 1 1898			4 mos
15	Jules Ferry (I) Sept 23, 1880-Nov 14, 1881			1 yr 2 mos	40	Charles Dupuy (IV) Nov 1, 1898 Feb 18, 1899			4 mos
16	Gambetta Nov 14, 1881-Jan. 30 1882			2 mos 15 dys	41	Charles Dupuy (V) Feb 18 June 22, 1899			4 mos
17	de Freycinet (II) Jan 30 Aug. 7 1882			7 mos	42	Waldeck Rousseau June 22, 1899 June 7, 1902			3 yrs
18	Duclerc Aug. 7, 1882-Jan 29 1883			6 mos	43	Combes June 7, 1902 Jan 24 1905			2 yrs 7 mos
19	Failleres Jan 29 Feb 21 1883			23 dys	44	Rouvier (II) Jan 24, 1905 Feb 18 1906			1 yr 1 mo
20	Jules Ferry (II) Feb 21, 1883 Apr 6 1885			2 yrs 2 mos	45	Rouvier (III) Feb 18 Mar 14 1906			3 wks
21	Henri Brisson (I) Apr 6, 1885 Jan 7 1886			9 mos	46	Sarrien Mar 14 Oct 25 1906			7 mos
22	de Freycinet (III) Jan 7-Dec 11 1886			11 mos	47	Clemenceau (I) Oct. 25, 1906-July 24 1909			2 yrs 9 mos
23	René Goblet Dec 11, 1886 Mar 30, 1887			5 mos 15 dys	48	Briand (I) July 24, 1909 Nov 3 1910			1 yr 4 mos
24	Rouvier (I) Mar 30-Dec 12, 1887			7 mos	49	Briand (II) Nov 3, 1910-Mar 2, 1911			4 mos
25	Tirard (I) Dec. 12, 1887-Apr 3, 1888			4 mos	50	Monis Mar 2 June 27, 1911			4 mos

THE DURATION OF MINISTRIES IN FRANCE

		1 yr	2 yrs	3 yrs			1 yr	2 yrs	3 yrs
51	Caillaux June 27 1911-Jan 14 1912			7 mos	76	Brand (IX) Mar 9-June 23 1926			4 mos
52	Poincaré (I) Jan. 14 1912-Jan 21 1913			1 yr	77	Brand (X) June 23 July 19 1926			26 dys
53	Brand (III) Jan. 21 Feb. 18, 1913			1 mo	78	Herriot (I) July 19-July 23, 1926			4 dys
54	Brand (IV) Feb. 18 Mar 22 1913			1 mo	79	Poincaré (IV) July 23 1926 Nov 11 1928			2 yrs 4 mos
55	Barthou Mar 22 Dec. 9 1913			9 mos	80	Poincaré (V) Nov 11 1928-July 29, 1929			8 mos 15 dys
56	Doumergue (I) Dec. 9 1913-June 9 1914			6 mos	81	Brand (XI) July 29-Nov 3 1929			3 mos
57	Ribot (IV) June 9-June 13 1914			5 dys	82	Tardieu (I) Nov 3, 1929-Feb 21 1930			3 mos 15 dys
58	Viviani (I) June 13-Aug 26, 1914			2 mos 15 dys	83	Camille Chautemps (I) Feb. 21 Mar 2 1930			10 dys
59	Viviani (II) Aug. 26, 1914 Oct. 29 1915			1 yr 2 mos	84	Tardieu (II) Mar 2 Dec. 13 1930			9 mos
60	Brand (V) Oct 29 1915 Dec 12 1916			1 yr 2 mos	85	Steeg Dec 13 1930-Jan 27 1931			1 mo 15 dys
61	Brand (VI) Dec. 12, 1916-Mar 20 1917			3 mos	86	Laval (I) Jan. 27 1931-Jan 13, 1932			1 yr
62	Ribot (V) Mar 20-Sept. 12 1917			6 mos	87	Laval (II) Jan. 13-Feb 20 1932			1 mo
63	Painlevé (I) Sept. 12 Nov 16, 1917			2 mos	88	Tardieu (III) Feb. 20 June 3, 1932			4 mos
64	Clemenceau (II) Nov 16, 1917-Jan. 20 1920			2 yrs 2 mos	89	Herriot (II) June 3 Dec 19 1932			6 mos 15 dys
65	Millerand (I) Jan. 20 Feb. 18, 1920			1 mo	90	Paul Boncour Dec. 19 1932 Jan 31 1933			1 mo 15 dys
66	Millerand (II) Feb. 18 Sept. 24, 1920			7 mos	91	Daladier (I) Jan. 31-Oct. 26, 1933			9 mos
67	Leygues Sept. 24, 1920 Jan. 16, 1921			4 mos	92	Sarraut (I) Oct. 26 Nov 27 1933			1 mo
68	Brand (VII) Jan. 16, 1921 Jan. 15 1922			1 yr	93	Camille Chautemps (II) Nov 27 1933 Jan 31, 1934			2 mos
69	Poincaré (II) Jan 15, 1922 Mar 29 1924			2 yrs 2 mos	94	Daladier (II) Jan. 31 Feb 9 1934			9 dys
70	Poincaré (III) Mar 29 June 9 1924			2 mos 15 dys	95	Doumergue (II) Feb. 9 Nov 9 1934			9 mos
71	François Marsal June 9 June 14 1924			5 dys	96	Flaudin Nov 9 1934 May 31, 1935			7 mos
72	Herriot (I) June 14 1924-Apr 17 1925			10 mos	97	Boulisson May 31-June 8, 1935			8 dys
73	Painlevé (II) Apr 17 Oct. 29 1925			6 mos	98	Laval (III) June 8 1935 Jan 24 1936			8 mos
74	Painlevé (III) Oct. 29 Nov 28, 1925			1 mo	99	Sarraut (II) Jan. 24 1936			
75	Brand (VIII) Nov 28 1925 Mar 9, 1926			4 mos					

92 GOVERNMENT BY THE CABINET

The French are accustomed to decree-laws, for the laws passed by parliament are often couched in general terms requiring supplementary administrative orders to make them effective. In times of national emergency the authority to issue decrees is frequently increased by parliamentary statutes giving the ministry "full powers" with respect to certain matters for a stated period of time. During the past few years the practice has grown to an unusual extent, chiefly on account of the financial emergencies which the country has faced.

On October 5, 1938, parliament passed the laws, cited in the first selection below, giving "full powers" to the Daladier government. Under this authority a series of thirty-two decree-laws were issued dealing with labor, public health, commerce, finance, and public works. Fiscal measures were taken which, among other effects, levied an extraordinary national contribution of 2 per cent on all earned income. Drastic economies were insisted upon, and it was urged that production be augmented by 30 to 40 per cent, that the forty-hour week be made more flexible, and that the control of wholesale prices be abolished. These proposals were met by a general strike, called November 30, 1938, which proved to be a failure. The net result of these measures of the Daladier government was to undo much of the French "New Deal" under Léon Blum. As shown in the second selection below, the grant of "full powers" was extended on March 19, 1939.

A THE GRANT OF "FULL POWERS" TO THE CABINET

(*Journal Officiel*, October 6, 1938. Translated by the editors.)

The Senate and the Chamber of Deputies having adopted

The President of the Republic proclaims the following law:

Article 1. The Government is hereby authorized to act through decrees duly discussed and approved before the Council of Min-

isters until November 15, 1938, in order to adopt all measures necessary to bring about a prompt recovery in the economic and financial condition of the country

These decrees, which will be deemed to have the force of laws, must be submitted for approval to both houses prior to January 1, 1939

The present law, considered and adopted by the Senate and the Chamber of Deputies, shall be executed as the law of the State.

B THE GRANT OF "FULL POWERS" EXTENDED

(*Journal Officiel*, March 20, 1939 Translated by the editors)

The Senate and the Chamber of Deputies having adopted

The President of the Republic proclaims the following law

Article 1 The Government is authorized, until November 30, 1939, to take the necessary measures for the defense of the country, by means of decrees considered in the Council of Ministers

Those decrees shall be submitted for ratification to the Chambers before December 31, 1939

The present law, considered and adopted by the Senate and the Chamber of Deputies, shall be executed as the law of the State

93. THE DISSOLUTION OF THE CHAMBER OF DEPUTIES

In England one of the most powerful controls which the cabinet possesses over parliament is the right to dissolve the House of Commons and to call new elections The French Constitution permits the ministry to dissolve the Chamber of Deputies provided the Senate gives its consent, but the power has been invoked only once and that more than sixty years ago It is an accepted part of French constitutional practice that the right of dissolution will not be exercised Yet there have always been those who believe that the parliamentary regime in France would be improved if the power to dissolve the legislature were to be revived and given to the ministry During the past few years in France there has been much discussion of the

problem. In 1934 the following project for reform was before the Chamber, but was not adopted

A REPORT OF THE COMMISSION ON THE REFORM OF THE STATE, 1934 (SET UP BY THE CHAMBER OF DEPUTIES)

(*Chambre des Députés Bulletin des Commissions*, No. 47, May 1, 1934, p. 2919 Translated by the editors)

After a discussion, in which MM Bracke, Margaine Henri Chatenet, Cornu, Gourdeau, Mandes-France Frossard, and Louis Sellier took part, the Commission adopted, by 21 votes to 3, the text proposed by the Sub-Commission, which would abolish the necessity of obtaining the consent of the Senate before the President of the Republic can decree the dissolution of the Chamber.

Nonetheless, the President of the Republic can make use of the right of dissolution only when the Chamber has been sitting for three months after a general election or after a previous dissolution.

B SENATOR MAULION'S ARGUMENT AGAINST DISSOLUTION

(Quoted in B Mirkiné-Guetzevitch, "Recent Development in the Laws," *Political Quarterly*, VI, 1935, 104-5)

In France no party has an absolute majority in the Chamber. No party is strong enough to form a government by itself. The governments are coalition governments. Their stability does not depend on the fidelity of a party to the programme on which it has been elected. It depends on the solidity of a parliamentary combination created by a number of parties after the election to constitute a majority. The premier who is defeated could not then, as in England, appeal to the people as the leader of a party who has been betrayed by some of his followers. Thus the dissolution in France appears as a means whereby either a conflict between the parliament and the government can be resolved or a more disciplined majority can be obtained if Parliament can supply only an unstable majority which makes progress in its work difficult. Unlike the state of things obtaining today in England, the dissolution in France is a means whereby the executive can fight Parliament. It would be liable to be very much abused.

C THE RADICAL-SOCIALIST POSITION ON DISSOLUTION

(Quoted in B Mirkiné-Guetzevitch, "Recent Development in the Laws," *Political Quarterly*, VI, 1935, 105-6)

The Radical and Radical Socialist Party, resolved to defend the republican institutions and the parliamentary system, faithful to its traditions, which imply the authority of the state and the respect of individual liberties, gives its representatives in Parliament the mandate to undertake without delay the revision of the methods of parliamentary work, and notably to support the limitation of the initiative as to the addition of extra expenditure to the Budget, the necessity of voting the budget within a fixed period, and strict discipline so as to prevent unnecessary prolongations of the sittings for any particular ends

Believes that in the case of a serious conflict arising either between the two Chambers or between the government and that Chamber which issues directly from universal suffrage, it lies with the people alone to interpose its arbitration, demands that its executive and its representatives in Parliament shall study and present in the shortest time a plan for the referendum, which being concerned not with persons but with issues, assures in order and in public peace the predominance of the general interest by the expression of the national sovereign will .

D THE DOUMERGUE PROPOSAL (1934)

(Joseph Barthélemy, "La Constitution Doumergue," *Revue politique et parlementaire*, November, 1934, p 225)

2 To substitute the following for the first paragraph of Article 5 of the Law of February 25, 1875

The President of the Republic can dissolve the Chamber of Deputies before the legal expiration of its mandate During the first year of its legal existence dissolution cannot be decreed without the consent of the Senate In the subsequent years the President of the Republic can dissolve the Chamber of Deputies without the consent of the Senate

94 THE "FONCTIONNAIRE"

There have recently been seventeen cabinet departments or ministries within the French government, employing nearly a million persons, exclusive of the defense services. While there is no general civil service law, numerous administrative orders have instituted a system of competitive examinations for entrance into the lower ranks of the service, and the higher offices are usually filled by promotion. These *fonctionnaires* constitute a powerful bureaucracy. While lacking the distinction commonly attributed to the British civil servant, the French *fonctionnaire* is usually able and thoroughly trained. One of the members of the French service, a secretary in the Embassy at London, gives the following account of the position of the *fonctionnaire* (Monsieur L. M. E. Roché, "The Public Servant in France," *Public Administration*, XVI, January, 1938, 27-32.)¹

(1) Technically, all administrative posts in France are placed under the supervision of central headquarters, i.e., of the various Ministries in Paris. Almost all officials, the higher and the lower, have to pass examinations or have to qualify for the post they want to obtain. This implies that they possess University degrees or school certificates.

There is of course a great variety of examinations. The officials whom I compared to your higher Civil Servants are recruited by what we call the "les grands concours." Those "grands concours" lead to the "Conseil d'État," the "Cour des Comptes," the "Inspection des Finances," the University, Law and Medicine "agré-gations," the Diplomatic and Consular Service, the Colonial Service, etc. There are various posts in the State industries which are reserved to the best students of "l'École Polytechnique."

The examination system is in use not only for the more important Institutions or Ministries, but also for careers like Forestry, Public Works, or the Post Office Administration. Those examinations are, on the whole, very hard.

(2) From the social point of view, all administrative posts are

¹ Reprinted by permission of *Public Administration*, London

theoretically open to all classes "La carrière ouverte au talent" It sounds too good to be true, and the French administration has frequently been accused of being the private property of the middle classes This accusation is justified inasmuch as it is easier for rich people or for people who are comparatively well-off to give their children the education which will enable them to become Public Servants

Of course many University Professors, Ministry Directors, Judges, "Conseillers d'État" are tempted to direct their sons towards administrative careers, and the son of a Public Servant, brought up in appropriate surroundings, is more likely than other candidates to be well trained for his examinations Yet it is a well-known fact that every year a fair number of young men who bear the names of well-known "hauts fonctionnaires" do not succeed in passing these examinations

One must not forget, on the other hand, that the French education system affords every opportunity to clever young men of modest origins to secure important posts in public administration In the large "Central Schools" like "l'École Normale" and "l'École Polytechnique," education is free Students, there, are educated entirely at the State's expense and, if one investigates into the social origins of those students, one finds that a great number of them come from very poor families of the lower middle classes or even of the working classes At the same time, numerous scholarships enable children, whose parents could not otherwise afford to give them a good education, to go through a complete course of secondary studies, and eventually to go to University or enter one of the Central Schools

We must now examine the position held by State officials as regards their material and moral conditions

(1) French Public Servants have never been very well paid Before the war, it was an established fact that to be a Public Servant and in particular to be a high official, one had to rely less on a salary than on private means of one's own; that, France being a country, where on the whole, life was easier and the cost of living lower than in other nations, a Civil Servant had to be a rich man to lead, if not a luxurious, at least a decent life. We shall see later on how the situation has changed in this respect since the war. Salaries have, nevertheless, remained very low I cannot do better than quote a few figures which will show you what

the highest officials, who embody the greatest administrative ambitions, receive from the State—

Vice-Président du Conseil d'État, Président de la Cour de Cassation, Président de la Cour des Comptes, Président du Conseil National Economique, Secrétaire Général of a Ministry 150,000 francs (£1,000).

These are the highest officials in France and could almost be called the "dignitaries" of the State

Président de Section au Conseil d'État, Président de Chambre à la Cour des Comptes, Procureur Général de la République at the "Cour de Cassation" or at the "Cour d'Appel" in Paris, Directeur général of a Ministry 125,000 francs (£833).

University professors in Paris, 62,000 francs (£413) to 90,000 francs (£600) and in other towns 49,000 francs (£326) to 70,000 francs (£466)

On the other hand, French Civil Servants enjoy a certain number of guarantees

Several laws and regulations prescribe that if a Civil Servant is insulted or assaulted while fulfilling his duty as Civil Servant, the offender can be prosecuted and penalties in such matters usually are of a strict kind.

Civil Servants can be suspended or dismissed only under special conditions and, in such cases, always have a right of appeal to the "Conseil d'État," which is the highest administrative authority and possesses the same rank as the highest Court of Justice. Besides, the "Conseil d'État" is competent to deal with all claims raised by Public Servants. This is one of the most important privileges of French officials, and they make a very wide use of it. Every year a great many officials prosecute the State for having been unlawfully moved from one post to another, for having been refused allowances they were entitled to receive, etc (1,500 cases every year). The "Conseil d'État," being quite independent from the Government and from political influence, gives a final judgment and does not flinch, if necessary, from condemning the State.

Another guarantee is, as in most countries, the right to a retirement pension. The State deducts 6 per cent yearly of the salaries to fill a special fund out of which it will be able later on to provide the Civil Servant with a pension. Those retirement pensions are very low, the highest ones do not exceed 45,000 or 50,000 francs (£350).

The bestowal upon Civil Servants of the cross of the "Légion d'Honneur," and promotion in this order, were, in the course of the nineteenth century, a most envied privilege. Very few people reached the rank, or rather the dignity, of "Grand Officer" or "Grand Cross," and when a mere "officer" of the Order died, an infantry detachment marched with muffled drum behind the hearse. To-day the "Légion d'Honneur" has lost much of its glamour. It is still bestowed upon Civil Servants, but less as a reward for outstanding services rendered to the State than as a sort of certificate that they have been faithful servants of the nation for so many years.

(2) The social position of French public servants varies very much according to whether they live in Paris or in the provinces.

In Paris, nobody pays any attention to Civil Servants, although the work they are doing there is more important than in provincial towns. With the exception of a handful of high officials, they have, as such, no social position and no conspicuous part to play. Much to the contrary, they are liable to be looked down upon on account of their small means. Theatres and newspapers are full of satires and cartoons casting ridicule upon State officials.

Provincial life is different. Officials mix with the local population and play a greater and a more conspicuous part in social life.

In a village, the schoolmaster plays a prominent part. He does not confine himself to teaching peasant children, but being usually, owing to his knowledge and his style, the Mayor's secretary, plays a leading part in local politics.

In "Préfectures" and "Sous-Préfectures" Civil Servants are known by sight. They meet at all the official functions they have to attend, such as the unveiling of a memorial, the burial of an important citizen, military parades and banquets, etc. They form a sort of "élite" with which business men and landowners, shopkeepers and farmers, and the lower middle classes and the gentry have to reckon.

95 THE SYSTEM OF ADMINISTRATION

The chief characteristic of the French administrative system is its high degree of centralization. The Ministry of the Interior, acting through the prefects and subprefects, contr-

local matters so completely that there is little opportunity for the operation of local self-government in the Anglo-American sense of the phrase. The French system stands as a type and has been widely imitated. The advantages and disadvantages of centralized control are discussed in the following analysis both from an administrative and from a political point of view (R. K. Gooch, *Regionalism in France*, 1931, pp. 43-51) ¹

A first count in the case against French centralization has it that the system renders precarious the very existence of the state. Through centralization, the argument runs, danger to the state is increased both from without and from within. In the first respect, danger from a foreign enemy is the more to be feared, since defence is made more difficult. Where the life of the nation is in such marked degree centered in its capital, a threat to Paris is a threat to the whole country. Thus, in the early days of the World War, a civil population determined to live and to struggle, even cut off from Paris, made almost superhuman efforts to reorganize "the province", and the Government was inspired to move to Bordeaux instead of sending "delegations" as in the War of 1870. All this was a belated recognition of a lesson which might have been learned from past experience, that to capture Paris is to capture the country. Similarly, from an internal standpoint, the history of revolutions and insurrections in France demonstrates that to secure possession of the seat of administration is to secure control of the country. Thus, revolution, it has been often repeated, is invited by the administrative system. This system, it is contended, is old and outworn, and, it is insisted, it is in reality an imperial system. Consequently, though all revolution is rendered easier by the system, conditions appear particularly propitious for a return to an imperial régime. As the late M. Paul Deschanel suggested some years ago, a people accustomed to personal government in their every-day affairs are not unnaturally more inclined, if circumstances offer the occasion, to welcome back personal government in the state. The latent appeal of Bonapartism is well known to students of the recent history and politics of France.

Certain further criticisms grow out of the reproach that the French administrative system is an imperial system, old and out-

¹ Reprinted by permission of the author and of D. Appleton Century Company, Inc., New York.

worn These criticisms are constitutional in character The present Constitution, the Constitution of the Third Republic, according to a frequently encountered objection, is incompatible with an imperial constitution To maintain Pluvîôse, Year VIII, in the twentieth century, says M. Chardon, is not only an anachronism but a fundamental error The Constitutions of the Year VIII and of 1875, it has been repeated since the adoption of the latter, are contradictory and antagonistic constitutions The modern system, it may be suggested, incorporates the principles of democracy, republicanism, and parliamentary government The administrative system, it is frequently said, is incompatible with all of these principles

The evils said to result for democracy from French centralization may be understood without the necessity of examining too curiously the exact nature of democracy or of attempting to define its exact meaning Democracy, in the eyes of the French, is irreparably connected with the idea of universal suffrage The importance attached to this concept can scarcely be overestimated At the same time, critics of the administrative system point out that unfortunate electoral results are attendant on the practical application of the principle of universal suffrage To appreciate the nature and extent of these results, it is necessary only to recall the position of the Prefects and the Sub-Prefects and their relationship to the people and the central government These officials, administrative and not political in theory, are in practice election agents for the Government The system which makes them powerful administrative agents locally, though subservient agents of the Minister of the Interior and of the Government, likewise makes them influential electoral agents There are countless ways in which their influence may be brought to bear in favour of the modern type of "official candidate" The anomalous situation, it has been strikingly said, is that a country in which the people pretend to possess sovereignty is in reality organized like a conquered country

There is an even deeper sense in which centralization is argued to be incompatible with democracy A commonplace has it that the only hope for democracy is the education of the people Equally platitudinous in the eyes of students of politics is the idea that a system of local self-government offers the most favourable opportunity, is indeed necessary, for civic education Centralization therefore strikes at the roots of democracy The citizens r

eliminated from local affairs, and they become indifferent to public affairs and disinterested. They grow to be inert, lose their sense of initiative, get to be incapable of virile effort. Voting is an abstract formality to them.

The fundamental advantage of decentralization is of course argued to be the fact that it secures liberty. The vitality which would accrue to any natural region affected by decentralization would render the region the sort of small country needed by the individual. His attachment to this small country, far from weakening the tie which binds the individual to France, would in reality save a patriotism which might otherwise perish from its very abstractness.

The moral unity of a country in which a revitalized patriotism would flourish would go far towards protecting France from exterior and interior danger. It would be a guarantee against despotism and a barrier against revolutions. Sectional difficulties such as result from the opposition of North and South and from the mutual misunderstanding between Alsace-Lorraine and the "interior" would be lessened. In fact, it is argued that a suitable solution of the problem of Alsace and Lorraine would not only be of immense benefit to France internally but would even have an important effect on the pacification of Europe.

Advocates of decentralization naturally claim that its realization can alone hold out hope of genuine civic education. The idea of responsibility, it is contended, would be developed, and only responsibility makes true citizens. Decentralization would destroy ignorance of public affairs on the part of individuals. They would learn to recognize incapacity in public officials and to make it impossible for such incapacity to flourish. Individual initiative would be revived, and virile character and vital energy would be developed. In the result, statesmen would be produced. Likewise, other aspects of education and culture would be benefited. Variety in customs, habits, usages, language, literature, and art would be safeguarded. Movement and life would be given to the localities, and the *éclat* would return to the local capital cities.

Decentralization would go far to relieve an overworked parliament. By a simple paradox, central power would be strengthened. The machinery of central government would be simplified, and a stronger executive would be possible. The evils of an omnipotent parliament would be lessened, and a closer approach would be

possible to the ideal of a nice equilibrium between legislature and executive. Moreover, the law and its application would be more flexible. Greater allowance for diversity of conditions could be made. For example, a solution would be more nearly possible for problems such as those which have remained without satisfactory answers in the vine-growing regions.

Instead of the many evils of bureaucracy, decentralization would result in many corresponding advantages. Delays and their irritations would disappear. Economies would result. The government and the governed would be brought closer together, and many public services would be better managed.

Finally, decentralization would result in an administrative organization which would conform better with modern economic needs. Commercial, industrial, and banking activity would be less centered in Paris, the productive forces of the whole country would be developed, and the economic life of the localities would flourish.

The criticisms of centralization and the alleged advantages of decentralization which have been enumerated as samples are not, it need scarcely be warned, universally accepted in France. Their existence, however, is of importance and interest, and, to say the least, they have for years kept the question of reform constantly before the public.

CHAPTER XV

PARLIAMENT

96. THE TEMPERAMENT OF THE SENATE

THE reactions of the Senate in political matters are often in strong contrast to those of the more impulsive Chamber of Deputies. This is, of course, a reflection of the composition of the two bodies and of the method of their selection. The members of the Chamber are popularly elected, while senators are selected by departmental electoral colleges. In each department the electoral college contains (a) members of the Chamber of Deputies from that department, (b) members of the general council, (c) members of *arrondissement* councils, (d) delegates from communal councils. This method of election establishes a rural domination over the Senate. The discussion below explains the effect of this on the Senate's temperament (P. Dominique, "Psychologie du Sénat," *L'Europe Nouvelle*, XIX, 1936, 1273) ¹

The Senate is our best means of provincial representation. It is even more rural than France as a whole, for the simple reason that, in the senatorial elections, the villages and towns have much greater power proportionately than do the cities, and particularly

¹ Translated by the editors. Reprinted by permission of *L'Europe Nouvelle*, Paris.

Paris The Senate therefore appears in Paris as a foreign body, an assembly of mayors and of members of local councils It is not by mere oratory that one can appeal to the "Grand Council of the Communes" of France It represents effectively the assemblies of the communes, arrondissements and departments, and those assemblies must not be ignored because they manage interests which touch citizens more closely than do the activities of national officers

The senator is not only a man of advanced age, ten or fifteen years older on an average than the Deputy, he is a man of judgment and wisdom He is a man who has had experience with administrative realities He is a man who almost never is selected for his eloquence, but rather for his services, his name, or his work in other fields than politics He is also a man who has no "fief" A Deputy is a feudal chief—for we live in feudalism—he is a local chief who, surrounded by a troop of faithful friends, has conquered an area or better, a country, and he helps his people by essentially Bonapartist or demagogic methods, by flattery, and sometimes helps his adversaries by tyranny But the Senator? He is above all that, first on account of his age, then because his constituency is larger and the principle of a fief is too small for it. He is elected by others who are also elected, and one does not treat elected officials as ordinary Frenchmen Finally, he is in the Senate, as everyone knows, for nine years

Representing the provinces, the Senate does not at all, as some people would believe, represent that which is reactionary in economics or politics, but rather that which is eternal in France Urban France has suffered vicissitudes in the course of time, rich cities have become poor and country towns have become metropolitan Industry and commerce come and go in the course of centuries, forming a noisy proletariat here and there, but the village remains the same. The province does not move

Therefore the Senator represents a France infinitely more stable, infinitely more lasting than that represented by the Deputy That I may be better understood, may I say that the Deputy represents man and his passions, at times controlled in questionable ways by interests, base interests, and alien interests The Senator represents groups of men, the state in miniature, communities already established, with human experience as the source of his power.

97. THE CHAMBER OF DEPUTIES

The Chamber of Deputies is the center of gravity of the French political system. Its powers and peculiarities are the subjects of endless discussions. It is admired and criticized, but it is generally agreed that the Chamber is like no other legislative body. The Chamber, in the following account, is discussed as a reflection of the very political qualities which distinguish the French people (P. J. Philip, "The Best Show in Paris," *The New York Times*, November 2, 1930, p. 6) ¹

Any six Frenchmen arguing politics in the corner of a café can produce the impression that a quarrel of magnitude is in progress. So when 600 of them gather together in legislative assembly the visitor, if he happens there on a day of great debate, may be forgiven for coming to the conclusion that civil war is imminent. He may find the place in an uproar, with the President, in full evening dress, banging his bell, some speaker at the tribune trying in vain to make himself heard above the din, Deputies thumping their desks and shouting across the floor at one another, two or three of them making speeches from their places and down in front a dozen elderly ushers in black uniforms with silver-hilted swords, standing unobtrusively ready to interpose if the row should degenerate, as it, however, very rarely does, into a hand-to-hand scrimmage between the fiercest hot-heads.

According to his temperament and his knowledge the visitor will sum it all up as "disgraceful" or "grand." There is always a struggle for tickets to the public galleries on those days when a big debate is expected, for there are few shows in Paris more worth seeing than a really heated afternoon or evening in the Chamber when some matter of principle is in discussion. But one sitting or ten is not enough on which to form a judgment of the Chamber of Deputies. Its faults are so easily apparent. Its qualities are so much less obvious. The former have served too well to give it an unmeritedly bad reputation and it is always much maligned. The reporters too often note and record the row and the issues are passed over. Even from Frenchmen one often hears the judgment, "The French are not suited to parliamentary government," and for-

¹ Reprinted by permission of *The New York Times*

eigners, impatient of liberty in others, are apt to dismiss it from consideration with one of those cliché phrases—"that it just serves to show how emotional the French are" It would be much nearer the truth to say that it illustrates, above all other things, how much more power the French have than most others of expressing their emotions and their thought, with perhaps in consequence, a more apparent liability to error

Let us look back for a moment at that table in the corner of the café with its six Frenchmen in discussion If they are strangers to one another they will be formal and polite But if they are cronies and the argument touches some point of principle or some abstraction, then in a minute long hands will come into action, arms will begin to fly about, heads to sway and nod in emphasis, one will spring to his feet, thunderous accusations will break forth amid a continuous barrage of talk with verbal high explosives, machine guns, rifles, and hand grenades all going at once

As a school of dialectics the café of a French provincial town between 5 and 7 o'clock in the evening is without rival It is the epitome of France's Parliament It is from that that one sees that the eloquence of the Chamber is the rule of the country, and it is there that one hears the principles debated which every now and then clash with fireworks of oratory in the Palais Bourbon

It is ironically in this gift of eloquence that one of the real weaknesses and perhaps dangers of the Chamber lies It loves fine oratory The memory of a great oration will linger long after the subject has been forgotten And, too, a well-placed speech filled with fine phrases and with perhaps some catchword to it will not only mark the orator for future office but, if it comes from a recognized leader, may settle policy for years to come Clemenceau's "I make war," Klotz's "The Boches will pay," Brand's "Arbitration, security, disarmament," Poincaré's "Within the treaties," are all typical examples of the power of the spoken word to create a creed and a doctrine When they fall on ears of a house primed by such staccato eloquence as Clemenceau had, or wrapped up and bound by the spell of Brand's violoncello voice pouring out an astounding imagery, they become a war cry, a trumpet call

It is on such occasions that one sees the Chamber at its best, moved by and responsive to the power of the spoken word. Yet from some side bench far removed from the centre of sway it is

sure some man will arise who has refused to listen to the siren voice, who has still his feet on the ground, whose memory is unconfused. It may be Louis Marin on one side or Léon Blum on the other, for these two are perhaps most typical of the constant opposition which is to be found among this 600. They will applaud the orator and come at once to the attack on his reasoning. For this is certain that there will never be unanimity of mind among 600 Frenchmen, whatever unanimity there may be of emotion, and this is equally certain "that one at least will be ready and equipped to fight back for what is then a forlorn hope but is sooner or later, if there is reason on his side, to be a new policy."

By scores of instances it could be demonstrated that the Chamber is, in that way, inconsistent, fickle, variable, that it can be led by oratory to approve what by more oratory it can be led to disapprove. In that there is easy and fertile matter for criticism by those who are quicker in their judgment than in their understanding "What these fickle Frenchmen need," they say, "is another Napoleon, a Mussolini, who will lead them, drive them if need be."

98 THE COMPOSITION OF THE CHAMBER OF DEPUTIES

The diagrams opposite give the party composition of the Chamber since 1914. They show the shifting fortunes of the parties, many of which have not been in continuous existence during the twenty-two years covered. However, some of the parties, such as the Radical Socialists, have consistently played important roles in the Chamber. Several of the parties listed are themselves federations of several groups.

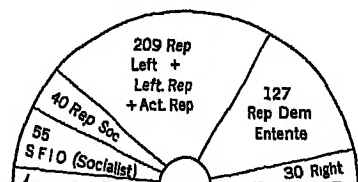
Extract B gives the popular vote, as well as the representation in the Chamber of Deputies, for the main groups in the 1936 election (*L'Europe Nouvelle*, XIX, May 9, 1936, pp 483-84) ¹

¹ Translated by the editors. Reprinted by permission of *L'Europe Nouvelle*, Paris.

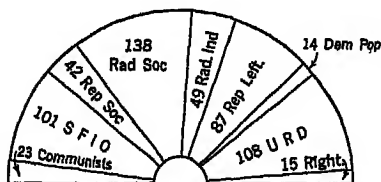
A PARTY DISTRIBUTION IN THE CHAMBERS



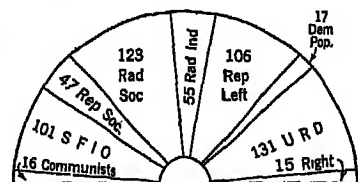
THE CHAMBER-1914



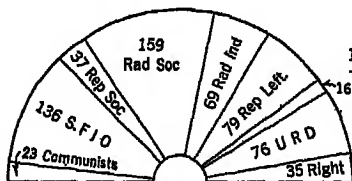
THE CHAMBER-1919



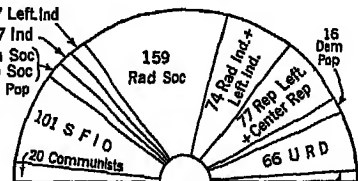
THE CHAMBER-1924



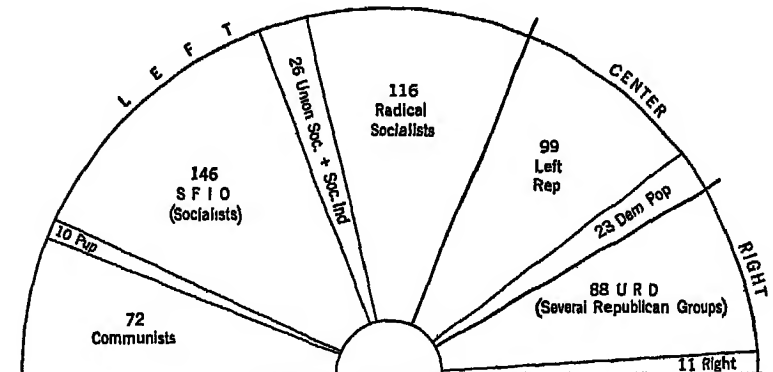
THE CHAMBER-1928



THE CHAMBER-1932
AFTER ELECTION



THE CHAMBER-1932
AT THE END OF ITS TERM



THE CHAMBER - ELECTED MAY, 1936

B. RESULTS OF THE 1936 ELECTION

PARTY	POPULAR VOTE	SEATS IN CHAMBER OF DEPUTIES
Democratic Republican Union and Independents	1,921,115	99
Popular Democrats	332,822	23
Left Republicans and Independent Radicals	1,938,729	99
Radical Socialists	1,461,447	116
Union Socialists and Independent Socialists	518,299	26
Socialists	1,922,523	146
Dissident Communists	95,017	10
Communists	1,503,650	72
Total	9,693,602	591

99 THE CHAMBER OF DEPUTIES AT WORK

The Chamber of Deputies under the Constitution is able to organize itself and to determine its own rules of procedure. For these purposes the Chamber has adopted an elaborate body of rules, providing a committee system, a presiding officer (president), and several vice-presidents, secretaries, and questors. The rules distinguish between the *projets de loi* (government bills) and *propositions de loi* (private members bills), but only in minor matters of procedure. A private member of the Chamber may introduce bills freely, unlike the practice in the British House of Commons, where it is necessary to draw lots for a place on the calendar. The French procedure likewise fails to distinguish between public and private measures, thus again departing from British legislative methods. In general, the ministry in France is considerably less able to monopolize the time of the legislature than does the cabinet in England.

The following articles from the rules of the Chamber of Deputies outline its organization and procedure.

(*Règlements de la Chambre des Députés*, translated by the editors.)

CHAPTER 2—TEMPORARY AND PERMANENT OFFICERS

Article 8 After the installation of the (temporary) President (the oldest deputy), and, if a new legislature is opening, after the

credentials of a majority of the members of the Chamber have been verified, the deputies proceed immediately in public session to the selection of a permanent Bureau, composed of a President, four Vice-Presidents, twelve Secretaries, and three Questors

CHAPTER 3—PERMANENT COMMITTEES

Article 11 At the opening of each legislature, and during June of every year, the Chamber of Deputies appoints twenty permanent committees, without prejudice to other special or permanent committees which it may later decide to create .

Article 12 The permanent Committees are elected on a general ticket by the whole Chamber Each is composed of 44 members .

CHAPTER 5—INTRODUCTION OF BILLS

Article 20. *Projets de loi* (government bills), introduced in the name of the government, are deposited by one of the Ministers at the Bureau of the Chamber

Article 21 *Projets* are printed with an explanation of their objectives, and distributed Except when the Chamber decides otherwise, they are sent to the competent permanent Commission . . .

Article 23 Every *proposition de loi* (private member bill) submitted by a deputy should be formulated in writing and preceded by an explanation of the objectives It is placed with the President (of the Chamber) who, after having notified the Chamber, sends it, except where otherwise decided by the Chamber, to the appropriate permanent Commission. .

CHAPTER 6—THE WORK OF THE COMMITTEES

Article 26 The Chamber reserves at least one day a week for the work of the Committees

Article 29 Every *projet* and *proposition de loi* or resolution or amendment, sent to a Committee, must be reported within four months, not including recesses, from the date when sent to the Committee

Article 30 In every Committee a quorum is one-half of the members

Article 32 Every Committee charged with the examination of a *projet de loi* or a *proposition* involving revenue or expenditure

reports on the general project, without power to propose a charge on the treasury.

If the decision is favorable to the *projet* it is communicated to the Finance Committee. That Committee, within ten days, gives its opinion on a charge on the treasury.

Article 33 The report of a Committee on a *projet de loi* or a *proposition de loi* is made in public session of the Chamber. It may be given preference if the Chamber so decides.

CHAPTER 7—THE SESSIONS (DAILY)

Article 37 The President (of the Chamber) opens sessions. He directs deliberations; he enforces the rules strictly and maintains order. He may suspend and terminate the session.

Article 41 No member of the Chamber may speak unless he has first asked and obtained the consent of the President. He may speak from the tribune or from his seat. The President may invite him to speak from the tribune.

CHAPTER 9—METHODS OF VOTING

Article 68 The Chamber votes on questions submitted to its deliberation by raised hands, by sitting and rising, or by public vote. . .

Article 72. The demand for a public vote must be made in writing, signed by at least twenty deputies, and deposited with the President. . . .

Article 73 Voting by public ballot is obligatory on *projets de loi* establishing or modifying taxes and public revenue.

Article 74 The procedure in the public ballot is as follows:

Each deputy places in an urn which is handed to him a vote with his name, white if it is for adoption, blue if he votes against adoption. When the votes are gathered, the President announces the closure of the ballot. The urns are immediately taken to the tribune. The Secretaries count them and the President proclaims the results.

100 INTERPELLATIONS AND QUESTIONS

Members of the Senate and the Chamber of Deputies are able to address interpellations and questions to ministers. An

interpellation involves debate and a vote which approves or condemns the policy which has been under attack. An adverse vote is normally followed by cabinet resignation. There is no close parallel in the British Parliament to the French practice of interpellation.

Ordinary questions, oral and written, are also submitted to the ministers for answer. The procedure in the treatment of questions is, in its major aspects, not unlike that used in the House of Commons. The answers are brief, usually but one or two sentences long.

A REGULATIONS OF THE CHAMBER OF DEPUTIES GOVERNING INTERPELLATIONS AND QUESTIONS

(*Règlements de la Chambre des Députés*, translated by the editors)

Article 111. A Deputy who wishes to address an interpellation to a member of the government sends a written request to the President.

That request explains in summary form the object of the interpellation.

The President, in writing, immediately notifies the Government of the request and reads it in the Chamber on the first day of the session following the notification.

Interpellations of one Deputy by another are forbidden.

Article 112. The Chamber, after having heard a member of the Government, fixes, without debate on the main point, the date for the discussion of the interpellation.

In no case may the discussion of the date last more than five minutes.

In the case of joint interpellations, discussion may not be closed until the first signatory or, as an alternative, one of the signatories of each interpellation has had an opportunity to speak.

The right of the Government to respond on the fixation of the date is limited to five minutes.

Interpellations on domestic questions may not be delayed for more than one month.

No interpellation may be submitted in the discussion of the budget.

Article 113 No *motivé* order of the day on interpellations may be presented unless it has been left in writing on the desk of the President

Article 114 The order of the day *pur et simple*, when demanded, has priority

Article 115 If the order of the day *pur et simple* is not proposed or if it is set aside, the Chamber, on the request of one of its members, may refer to the competent permanent Commission or to a Bureau the question of proceeding with a *motivé* order of the day.

The Chamber makes a decision on the report of the permanent Commission or of a special Commission named by its Bureaus

If the report of that Commission is rejected the matter is placed on the *motivé* orders of the day, following the order fixed by the Chamber

Article 116 If the order of the day *pur et simple* is not adopted and if examination by a permanent Commission or by a Bureau is not ordered, according to the above article, the President submits *motivé* orders of the day to the Chambers,

Article 117 Requests for interpellations withdrawn by those who submitted them may be renewed by other Deputies

Article 118 Every Deputy is permitted to ask written or oral questions of Ministers

Article 119 Written questions, in summary form, are submitted to the President of the Chamber

During the twenty days following their submission, they are to be printed with the responses given by the Ministers

The Ministers are able to declare in writing that public interest forbids a response or, in an exceptional case, that they need to delay in order to prepare their response

Article 120 Oral questions may be submitted to Ministers at the end of the sittings on Tuesday and Thursday, not later than 7 o'clock in the evening

The statement of the question may not exceed fifteen minutes After the response by the Minister, only the Deputy who submitted the question may reply, using not more than five minutes of time

Not more than two questions may be fixed on the orders of the day for one sitting

The Ministers are informed of questions directed to them in the

form in which the requests for questions have been communicated

The questions are inscribed in the orders of the day for the sitting at which they are to be submitted

The question may not be transformed during the sitting into an interpellation

B EXTRACT FROM AN INTERPELLATION ON THE GOVERNMENT'S DISARMAMENT POLICY, OCTOBER 29, 1932

(*Journal Officiel*, October 29, 1932 Translated by the editors.)

M LE PRÉSIDENT The order of the day calls for the discussion of several interpellations (1) by M Chasseigne on the policy of the French delegation at the Disarmament Conference, (2) by M Louis Marin, on the intentions of the Government regarding the question of disarmament, (3) by M Franklin-Bouillon on the German situation and the Disarmament Conference, (4) by M Léon Blum on the policy which the Government intends to follow in order to assure all nations equality in the progressive reduction and control of armament; (5) by M Nogaro on the Disarmament Conference, (6) by M Péri on the attitude of the French delegation at the Disarmament Conference and Franco-German relations, (7) by M Henri Guernut on the means by which the Government intends to link disarmament with an international organization for security

The author of the first interpellation, M Chasseigne, has the floor [A debate lasting several hours followed at this point After the debate and an intermission of five minutes, the following resolutions were introduced A vote was taken on the first resolution which carried by a large majority, thereby confirming the Government's policy No vote was necessary on the second resolution]

M LE PRÉSIDENT (after a recess of five minutes) The session is again in order I have received two orders of the day The first, signed by M François Albert and a number of his colleagues, is as follows

"The Chamber, aware of the gravity of the economic, political and moral crisis which covers the world and convinced that that crisis cannot be surmounted except by great international cooperation,

"Considering that it is urgent for the defense of menaced civilization to inaugurate in all domains collaboration and agreement, that all differences which may exist between France and other nations ought to be treated in a spirit of conciliation and with the desire to make justice triumph,

"Approves the declarations of the Government and extends confidence to it for the pursuit of a policy founded on the following principles

"1) Respect for the principles embodied in the League of Nations, particularly that which concerns arbitration and condemnation of aggression,

"2) General reduction of armaments, effectively controlled, and the extension of the powers of the League of Nations in order to assure equality of peoples in a system of international security,

"3) The suppression in all countries of the private manufacture of arms and in traffic in arms and equipment of war

"And, rejecting further additions, passes to the order of the day "

The second, signed by M. Clamamus, Capron, Dewez, Doriot, is drafted as follows

"The chamber, considering that the Treaty of Versailles has promoted the capitalist exploitation of workers in defeated countries and increased the dangers of conflagration between victors and vanquished of the last war,

"Considering that the treaties of 1919 multiplying the number of countries and national minorities placed under their yoke, have increased the causes of internal conflicts in Europe,

"Considering that the inequality of military status is a permanent cause of conflicts, leads to Fascism and encourages armament competition,

"Demands that all the treaties of 1919 be abrogated, affirms the right of oppressed peoples in all Central Europe, and in particular, the people of Alsace-Lorraine, to self-determination,

"Announces itself solidly behind the workers of Germany and Poland, in their strife against Fascist governments, and engages the French proletariat to lead a battle against our principal enemy, the imperialist government of the country" (Applause from the Extreme Left.)

Is the request for the priority for the orders of the day of M. François Albert contested?

Numerous voices No! No!

M. LE PRÉSIDENT (after the vote had been taken on M. Albert's proposal) The result of balloting is as follows

Number voting	450
Absolute majority	226
For adoption	430
Against adoption	20

C QUESTIONS ADDRESSED TO MINISTERS

(*Journal Officiel*, April 1, 1938 Translated by the editors)

5208 M. Émile Périn explained to the minister of agriculture that a child works in a garden owned by the person who lives at the place, and asked him whether a contract of apprenticeship with the legal representative of the child could be considered regular

Reply Yes, if the proprietor follows the profession of horticulture, no, in other cases, the contract of apprenticeship being one for which the head of a business agrees to teach the practice of his profession to another person who agrees in turn to work, under conditions and for a period stated

5820 M. Joseph Denais asks the minister of interior what check has been made on the finances of the communes of the Department of the Seine since May, 1935, and to what extent the situation has been found sound

Reply A delay is necessary to assemble the facts of the reply to the question asked by the honorable member

101 PARLIAMENTARY CONTROL OVER FINANCE LEGISLATION

The French budget system permits considerably more parliamentary control over finance than the English system allows. The Chamber of Deputies is virtually unlimited in its power to amend budget figures as they come from the Ministry. There is no rule of the Chamber comparable to Rule 66 of the House of Commons whereby proposals for expenditure may be considered only if they are made by the executive. The rules of the Chamber, given as Selection A below, represent limitations on the power of the individual Deputy to affect finance legisla-

tion They do not prevent the Finance Committee from making such alterations as it pleases. Selection B is a discussion by André Tardieu of the evils of the system of parliamentary participation which he believes encourages graft and extravagance.

A. RULES OF THE CHAMBER RELATING TO THE BUDGET

(*Rèlements de la Chambre des Députés*, translated by the editors)

Article 100. The Finance Committee, provided in Article 11, is charged with the examination of revenue and appropriation bills. All *projets de loi* calling for supplementary or extraordinary credits, and relating to current activities provided by law, are sent to that committee for examination. Before the examination by the committee of each budget item, the special *rapporteur* may be called before the competent committee to present an oral explanation of the budget provisions; it is his duty to mention in his report the observations presented by members of the latter committee.

Article 101. In regard to finance laws, laws pertaining to direct taxes, and laws calling for new credits, no amendment or article increasing expenditure or reducing revenues may be deposited after the ten days following the distribution of the report.

Article 102. No proposition (proposed by a private member), whether involving an increase or reduction of salaries, indemnifications or pensions, or the creation or suppression of services, employment or pensions, or their extension outside the limits provided by the laws in force, may be made in the form of an amendment to the finance law, tax law, or law opening or extending credit.

No additional article or amendment may be added to those *projets* unless they relate directly to the texts of the articles.

B. A DISCUSSION OF THE SYSTEM

(A. Tardieu, "L'Initiative des Dépenses," *L'Illustration*, August 12, 1933, pp. 490-91) ¹

From shop, field, office and factory there arises a cry of fury against extravagance in public affairs and against high taxes.

¹ Translated by the editors. Reprinted by permission of *L'Illustration*, Paris.

A simple and equitable reform is before us to withdraw from the Deputies the right of proposing expenditures and reserve that right to the Government. The mischief wrought may thus be in large part remedied. But it appears that the remedy may do violence to democratic principles and to the freedom of public agencies. Is that possible? It is difficult to believe.

The English Declaration of Rights of 1689 announced that "All taxes levied without the consent of the Commons are illegal." In France, the records of the Three Estates, in 1789, were in agreement with the Parisian masses that "The people alone are able to consent to supplies."

England was the first country to conclude that this was not enough and that the representatives of the people, after performing the duty of defending taxpayers against the king, might appropriate for their own ends. In order to satisfy electors upon whom their mandate depended, in order to get the support of personal or group influences, the elected representatives became extravagant. Selected to curtail the proposals of the Crown, they added to them their own proposals. The taxpayer was despoiled again.

The danger appeared so serious that, since the beginning of the eighteenth century, the Commons have made rules to meet it. By a regulation of 1706, supplemented by later resolutions of 1707, 1715, 1813, 1821, 1852, and 1866, they have deprived their members of initiative in voting appropriations and have reserved that right to the ministers representing the Crown. The English deputies are unable to propose new items of expenditure or an increase in items of the budget. They possess all initiative in legislation except that.

France, occupied with logical abstractions, and obsessed, at the same time, with a strong defiance of executive power in all of its constitutional activities, has not taken the wise precaution from which England has profited so much, and, under all of our constitutional systems, has left to elected representatives unlimited initiative, even in matters of appropriations. Never has it announced the fundamental distinction, on which the English system rests, between legislation in general and the proposing of expenditures in particular.

Under the Third Republic that initiative has been extensively exercised. The Constitution of 1875 includes only two provisions on this subject: one assures to the President of the Republic and

to the members of the two Chambers equally, an initiative in legislation, the other limits the power of the Senate by ruling that finance legislation must be introduced in the Chamber of Deputies and voted first by that body

The Senators are thus forbidden to initiate appropriation bills and to propose increases in items. On the contrary, the Deputies are able without restrictions or reservation to propose new credits and increases

I have described this régime and its faults. Even before his election the candidate is expected to submit in the *arrondissement* to the begging oligarchies which constitute the invisible pillars of our public life. After election he is subjected for four years to their control

Thus encircled, the Deputy does not hesitate to defend anything or any one in order to pillage the budget for the profit of those interests. He uses his initiative in finances to propose, in favor of individuals or groups, increases in salaries, annuities, pensions, allowances, subsidies, financial advantages, and even the basic prostration of the state. The Treasury pays the expenses

In 1882, parliamentary initiative created a deficit of 356,000,000 francs, or 1,780,000,000 francs in present money. In 1888 it created another of 323,000,000 francs, or 1,615,000,000 francs in present money. Getting closer to the present time, we find that expenditures have been increased more rapidly. From 1914 to 1933, after taking into account the devaluation of money, the expenses of the state have increased 42 per cent. . .

On one occasion, but for only three weeks, positive results were achieved. M. Poincaré was able, in the debate on financial relief in 1926, to suppress initiative to amend during that debate, through a proposal of M. Candace. But, the law voted, the petty sport was resumed. . .

If one wishes to solve the problem there is only one way to introduce in France the English system, and to give that system a chance to succeed by incorporating it in the Constitution, as soon as circumstances will permit. The objective would be attained by a short amendment to Article 3 of the Constitutional Law of February 25, 1875, as follows:

The President of the Republic has the initiative in law-making concurrently with the members of the two Chambers,

except where the opening of credits or the reduction of revenues is concerned, which may be proposed only by the executive power.

102. A FRENCH CRITICISM OF PARLIAMENT

It is often remarked by students of government that in England the cabinet leads and parliament follows while in France parliament leads and the cabinet follows. There is good ground for this assertion. And because of this parliamentary domination in France, executives who have wished to put into effect ambitious and aggressive programs have chafed under the restraints imposed upon them by a critical legislature. The following account by a distinguished statesman of France gives a clear insight into the present unhappy relations between executive and legislative bodies and also a suggestion as to how the situation may be relieved (Raymond Poincaré, "Les Méthodes Parlementaires," *L'Illustration*, February 22, 1930, pp. 238-39) ¹

Formerly, a ministry had sufficient authority if not prestige so that deputies who were not ministers had no illusion of being on a level with it. Now, the most inexperienced judge themselves worthy of a portfolio and consider that their presence in a cabinet will elevate its prestige and influence. Never has power been treated with more lack of ceremony and never has the appetite for it been greater. The familiarity, sometimes a little aggressive, which a number of members of Parliament manifest toward the ministry does not come alone from new customs and from the appearance of the type of man who detaches himself willingly from tradition. It comes equally from a growing confusion of legislative and executive functions. The Chambers are no longer content to make the laws. They consider that a secondary task. More and more, they aspire to govern. A cabinet no longer seems to them an organ of decision and action, responsible to them, but free in its own initiative. They consider it rather as an executive office constantly subject to the direction of Parliament. The development of the great committees which formerly were the exception and which, since the war, have

¹ Translated by the editors. Reprinted by permission of *L'Illustration*, Paris.

become imperceptibly the rule, have had a great deal to do with the decay of the executive authority

It is a miserable life that these successive governments are forced to lead by the great committees of Finance, of Foreign Affairs, of the Navy, Army, Commerce, Agriculture, Public Instruction, Civil Legislation, and still others—like so many broken mirrors of parliament! Before the war of 1914, these permanent committees were scarcely known. The projects of law which a government proposed, the individual or collective proposals drawn up by one or more Deputies, were referred to Bureaus, among which the members of the Chamber were distributed each month by lot. A summary discussion was carried on in each of these Bureaus.

Today it is quite a different thing. The great commissions are constituted in advance, without there being any immediate necessity for them. They are not formed with a special and definite object. Proportional representation plays an unexpected part. The parliamentary groups have the right to be represented on each committee in proportion to their numerical importance. They choose their representatives themselves. These choices are silently accepted by the Chamber, and the committees thus composed become by this procedure a reduced but faithful image of the heterogeneous composition of the Chamber. This method of nomination is equitable and reasonable if these groups corresponded exactly to well-defined parties, but nothing like that exists. The rules by which these parties are created and dissolved are arbitrary and obscure. A personal ambition suffices at times to hatch out a new group or to destroy an old one. Some appear whose only reason for being is, at first, to facilitate the entrance of a candidate into a particularly desirable committee. Yet the organizations thus formed acquire an extraordinary power. Their presidents and chief reporters are immediately classed as personages of the first rank. If they have not yet been ministers they are conscious that it cannot be long before they will be, and they must have a great deal of altruism and modesty in order not to believe themselves heirs apparent. At the wish of their committee or of a few of its members, they call together the members of the Government, less for the purpose of submitting questions to it than of questioning it. All this takes place, it is true, with extreme courtesy. The premier, flanked by one or more ministers, is received before the Sanhedrin with all the respect due to an important person under accusation.

They are offered comfortable chairs, they are thanked for having replied to the invitations sent them, then with great deference the examination is begun. For hours, often in fact for several days, the ministers remain seated on their stuffed penance seats, far from their offices, far from their chief assistants, far from their administrative duties. It is indeed fortunate, if their explanations appease the demands of the majority representatives and if they can prepare, at least for the subject under controversy, a temporary collaboration between the Chamber and the ministry.

Certain ingenious arrangements have now been inserted in the regulations in order to avoid excessively long debates. The speaking time of the orators has been limited, but, on the other hand, as the idea of having speakers who represent party groups has been developed, and as the custom of reserving for them a favored place has grown, the speeches have gained in number what they have lost in length, and frequently it will happen that one representative, taking the place of another on the rostrum in the name of the group, will uphold with equal talent a different argument. What is the true opinion of a group which is represented in this contradictory fashion? One might ask himself that, with some astonishment, if it were not known in advance that it is capable of having two opinions successively, or even at the same time.

If, in order to procure a relief for the discomfort from which we are suffering, and with which so many other nations have been afflicted, it should be necessary to go to Versailles, and there work over the Constitution, I should hesitate, I avow, to counsel this little journey. Fortunately, it is the practices which we must correct today, much more than the institutions, and in their relation to the institutions they are little more than incidental. If, for example, the Chambers wish to conserve the system of the great committees, they ought at least remember that it was given its present place during the war in order to avoid the frequency and the length of public debates. Now, matters ought to be rearranged so that the discussions will not be reopened four times, at a minimum, and often seven or eight times, before finally winding up in a legislative proposal.

CHAPTER XVI

PARTIES AND ELECTIONS

103. THE PSYCHOLOGY OF FRENCH POLITICS

THE undercurrents of contemporary French politics have their sources in events and movements of the remote past. Some of the conditions which have shaped the French political mind are described below by a well-known French writer (A Siegfried, "The Psychology of French Politics," *The Atlantic Monthly*, CXIV, January, 1930, 87-96) ¹

In French political life certain qualities seem to be permanent, such as the individualism originally inherited from the Gauls, which is now innate in our character.

Instead of organized parties on the English model, we have political groups that are as uncertain and changeable as clouds, and with no real discipline. The individualism of France is negative in comparison with the constructive individualism of the Anglo-Saxon Protestants, in fact, the two schools of thought are so definitely opposed that one needs entirely different sets of words to express the two ideas. Our political combinations are unstable, but their tendencies are remarkably fixed, for even after fifty years we often find the same political tenets adhered to in some districts. They still, although the party labels may have changed, represent the solid foundation of our political history.

¹ Reprinted by permission of *The Atlantic Monthly*, Boston

Another thing that we are apt to overlook is that we are satisfied with our own mode of life, so contented, in fact, that we cannot picture any other. The social structure built on this foundation is possibly the most solid basis of the nation, for the daily routine of the French people is ingrained in their very being—the wine at every meal, the black coffee after lunch, the little garden tended so lovingly, and the modest café where they chat and play cards with their friends. Watch a mason in the South lunching under the trees at noon, or a French gendarme lingering over his coffee, and you will agree that there is something in our atmosphere which you can neither replace nor carry away with you. Danton spoke truly when he said that we could not take our native soil away on the sole of our shoes. France means to us a way of living on which we are all so entirely agreed that scores of things are taken for granted, no matter to what political party we belong. In this sense one might say that the most progressive are really the most conservative.

Our discussions on practical matters are thus anything but sensational, and although they may be ably, even brilliantly presented, they interest only the specialist, so the game as a political game is hardly worth the candle. In France a policy of interests rarely pays, for, as Albert Thibaudet remarks, "our political life is autonomous, and it is not a supplement to economics. . . . If a party puts 'Interests' on its banner, absolutely nothing doing!"

On the other hand we get quite worked up when we discuss persons and personalities, and the position of the individual in the community—especially if theory enters in! Even such a simple matter as our own personal theory on the point entails endless debates and floods of eloquence. Principles and ideals are the heart and soul of our politics, but their eventual application often remains a matter of quasi indifference. That subtle connoisseur, Robert de Jouvenel, rightly observes, "Our legislators are far less interested in the contents of the bills before them than in the resolution closing the debate." This explains the carefully prepared speeches to establish the exclusive claim to some great man long since dead and gone, or to some glorious national heroes over whom, anywhere else, there would be no dispute whatever. If we are not quite sure what group Vercingetorix would now back, at least we do know that the Church claims Joan of Arc as belonging politically to her, and so the posters in the windows on her saint's day give us an exact map of clericalism and anti-clericalism in Paris.

The municipal disputes over the names of streets are even more amusing. Such excitement when it comes to voting for the title to be posted up on the walls, whether it is to be Boulevard du Maréchal Foch, Place Anatole France, or Rue Ferrer! The animated discussions which arise in this respect really amount to opposing various conceptions of life, politics, and man to each other, and they disclose within those militants full of "sound and fury" a fine imaginative power. In the end they go off peaceably to a café, and probably nothing is changed.

Party divisions—political tendencies, if you prefer the term—are based on opposing conceptions of life, and the instinctive personal reaction of like or dislike felt toward a certain social order. During the past century we have had two main lines of cleavage: first, the French Revolution and whether or not we accept it and its consequences, in which case the contest is for or against the *ancien régime*; secondly, the intrusion of capitalistic production into the social system born of the eighteenth century, in which case liberty and individualism, the moving forces of yesterday, defend themselves against collectivism, the invading force of to-day. The Revolution was still the outstanding issue up to 1848, but later, especially at the end of the nineteenth century, the question of capitalistic domination became entangled with it, without, however, supplanting it. Thus we must consider the parties according to whether they are based on the Revolution or upon the industrial problems that are steadily increasing in importance.

Even to-day, a hundred and forty years after the Declaration of the Rights of Man, the French Revolution has not yet been accepted by everybody. Do we, or do we not, agree with the spirit of 1789? That is the point. It is not a question of the republic versus royalty, the issue lies much deeper. "You are rallied around the republic," said Leon Bourgeois to certain Orléanists on the morrow of the Boulangist imbroglio. "That means nothing. Do you accept the Revolution?" The line of demarcation is not where we expect it to be, for except among the masses the number of devotees to the Revolution is surprisingly small.

Underlying the spirit of 1789 is the conviction that sovereignty is vested in the people, that is to say, we are ruled from below, not from above. This presupposes equality of citizenship, at least in theory, but it does not mean Communism, for we wish to keep our personal independence, nor yet real equality, for we are too practi-

cal for that. In the last analysis it is the confirmation, jealous and unyielding, of the theory of the dignity of the individual, a theory in which one still feels the passionate eloquence of Rousseau.

In the nineteenth century the various social classes, using the term without legal significance, were clearly grouped according to their political tendencies, for or against the spirit of 1789.

In this connection let us first consider the peasant and the village craftsman, whose attitude—except where they came under the influence of the Church—may be summed up as an instinctive resistance to the priest and the château. Sometimes to-day the nobleman and the priest may not be on the best of terms, but in the most rural districts the political balance of their claim to domination and the resistance to it still holds good.

Like the peasant and the artisan, the factory worker—a later social type—was originally imbued with the revolutionary spirit, to an even more passionate degree. Class war came from other countries later on, but we had a working-class movement of our own, which has not lost its significance even to-day. I can remember a time, not so very far back, when many workmen were simply Republicans.

We next come to the small civil servant of ordinary birth and education, thoroughly under the thumb of an administration related to those in authority, but eager to emancipate himself under the banner of the republic which he felt belonged to him. At the time of Gambetta, the school master and the postman were the village enthusiasts for the cause. The middle and the lower classes, who were always losing their more brilliant members as they passed on to better things, were all the more resentful of the snobbishness of the rich, and therefore loyal to an order working for equality. It was in these various groups that the budding republic found its most spontaneous and faithful supporters on the morrow of May 16, 1877.

On the other hand there are certain classes whose ideals are incompatible with the New Order: the Church, for the reasons given, the nobility, which naturally clings to its traditions of hierarchy, and successfully enough, too, in some districts, and the bourgeoisie, promoted in its turn to a position of social authority. Each has its own satellites: the Catholics, devoted to the priest, the poor, assisted by the Church and the rich, the small farmers, fearing the great landowner, the tradesman of the village and small town,

frightened by the thought of a boycott, and finally employees, domestic servants, and laborers, kept in a state of dependence. Wherever society is bound by hierarchy or organization, it tends to free itself from the spirit of 1789 in order to revert to other ideals. It is hard to realize how far tradition, sometimes in modern guise, still exerts its influence. The people, with their naive idealism, always hope to win in the end, but the wise know that they are dreaming of a Utopia.

The line dividing these two groups stands out as clearly as the contours on a map. The people of the lower classes naturally mingle only with one another, and the rich and powerful also keep to themselves. Both feel they are on the defensive, and so they are. In every French community we find the schoolmaster and his followers eager to emancipate the people, while behind the priest, the nobleman, and the rich bourgeois are lined up the Conservatives, who consider that, as the masses are incapable of governing either themselves or anyone else, they must keep them under their tutelage. The two temperaments are so definitely opposed that it is difficult to judge them fairly, for everything depends on the point of view.

The French Revolution recognized only the individual, and ignored the working classes, as at that time industrial life hardly existed. The problems arising from the new conception of production only began to make themselves felt from about 1880 onward, in fact, they only came properly into existence at the time of the Revolution of June, 1848. It was only in the last decade of the century, when the Socialist party began to be powerful, that social questions really competed with the political matters which had hitherto exclusively claimed our attention. Although industry is still only of secondary importance in France, its repercussions have had a distinct political influence on our various social classes.

The transformation of the working-man was less marked in France, no doubt, than in any of the great Western nations, for our craftsman lingered on long after the Industrial Revolution. He was a fine type, imbued with professional honor, his very being bound up in his work, according to true French tradition. Behind his barricades it was he who was mainly responsible for the revolutions of the past century, which drew their inspiration, not from class hatred or revolutionary doctrine, but from a democratic ideal.

He later became a Socialist, and again it was he who originated the Socialist Party and the Confederation Générale du Travail His Socialism was always true to the ideals of the nineteenth century, and therefore he is not and never will be a true Marxian

The factory worker of to-day, at least when transformed by mass production, is a very different type, for he no longer feels that he has a trade Once a Frenchman has let himself become the servant of a machine he loses his pride in his work, becomes discontented and devoid of political conscience In Paris the factory worker is the backbone of the Communist Party, a fact which proves that machinery has exerted a fatal influence Its introduction in France marks a step backward from the political standard of earlier generations

Wherever our government administration has been industrialized, the small civil servant has undergone a similar change, although if he happens to be isolated in a village he is still a simple and traditional enthusiast for political progress In the latter case, I do not believe his psychology has altered, in spite of the fact that he now advocates Socialism and Communism instead of the republic, as his father did fifty years ago But if he is attached to an industrialized administration, like the post office in Paris or one of the large cities, his case is different, for he is then inclined to stray from the old democratic ideals, which originally attracted him, into the ranks of the extreme Left The collective demands of the professional worker, class warfare, and the revolutionary spirit lay hold of him, and he naturally joins one of the parties of social discontent

The result of the Industrial Revolution has been to turn the bourgeois to the Right It brought him without struggle to the front ranks socially, for the nobility were soon little more than a memory Politically he feared the working man, who also was becoming an important influence in the State Since the days of June, 1848, the bourgeois has shown himself in his true conservative colors, for he has abandoned, one after another, all the ideals he learned at the time of the Revolution With a few rare exceptions the bourgeoisie now belongs to the party of resistance, and hardly any of its sons would wish to remake a really democratic republic, I think, if it had to be done

The religious evolution of the bourgeois has been no less marked

Up to 1848 he was usually a follower of Voltaire, although he felt that religion was a necessity for the masses, but after 1849 he suddenly began to regard the priest as a valuable aid to the police in keeping order. The salons eventually ceased fighting the Church, although in the smoking rooms the unbelievers still continued to rail against it. The generation that came of age at the end of the century were weary of excessive individualism, and longed for moral and social order. They rallied around Catholicism, not for the matter-of-fact reasons of their ancestors, but because they needed a constructive philosophy of life. Since the Dreyfus Case and the war, religion has become an integral part of the convictions of the bourgeoisie. Thus in the past hundred years they have gone right over to the other side of the fence.

"Midway in his intellectual development, the writer or the politician," says Barrès, "finds that he must stop chasing his predecessors in order to deal as swiftly as possible with his successors. He becomes a Moderate, as the expression goes." This is precisely what happened to the bourgeoisie when they were no longer irritated by the diminished ranks of the nobility. Meanwhile a Caliban, daily gaining in strength, began to push them into the background.

Where do the people stand in all this—I refer to the People with a capital P, the mystical democracy which preceded Karl Marx and class warfare, the People of Michelet? They have changed little, for the spirit of conservatism persisted with them as the small landowners with a stake in the country became more numerous. In France it is impossible to take liberties in the name of Marx or Lenin against the property of the small people, although the masses are still faithful to the mysticism of equality and democracy. At heart they are still inclined to the Left, not only against the Church, but more urgently against the dictates of capitalism. Recently one has discerned signs of a new demagogy, rural in character, attacking the great landowners on behalf of the small. Public opinion with us is still jealously hostile to big business, and although bankers and industrial magnates may exert all the influence they wish, they must not do it openly.

Have the French people become more international as the result of their contact during the war with the armies and people of the five continents? Theoretically, perhaps they have, although they still

obstinately cling to their own customs and ideals, and are largely indifferent to new conditions. Feminism, prohibition, and departments of health mean not very much to them. They stand firmly between the priest on the Right, whose leadership they refuse, and anarchy and revolution of the Left, which offend their bourgeois susceptibilities, and finally they decide that international Socialism does not suit either their habits or their routine. So they remain negative, but still sufficiently important to create a great unorganized but stable democracy.

The contradiction in French character is obvious. A Frenchman wears his heart on the Left and his pocket on the Right—and in practice every Frenchman has a pocket! His innate love of order—his own interests, to express it more crudely—counteracts the extreme political ideas which delight him. This Don Quixote is accompanied by a Sancho Panza who never leaves him for a moment. His slogan, "Always to the Left," is only used as a symbolic gesture, for his practical politics run up against barriers piled quite as high as progress stretches in front. This explains why foreigners treat us as dangerous revolutionaries when we talk, and as slow bourgeois of the old type when we do not come to the point. It also explains why we have been for a century on the offensive against autocracy in all its forms, and are now on the defensive against a new type of production which we find disturbing. We remain the republic of little people, pre-occupied, according to Alain, with the "continuous struggle of the small against the great." We are always ready to protect the small and weak, the little landowners, the little employees, the little pensioners, and even the little cheats.

104. THE ORGANIZATION OF THE PARTIES

It is only during recent decades that French political parties have developed much in the way of organization. Even yet they are quite simple as compared with American parties. The multiplicity of parties is, of course, a deterrent to highly complicated and expensive organization. As a rule the Left groups have developed more along this line than the others. The constitutions of two parties are given below. A, the Radical Socialists (from the Left center), and B, the Republican Federation (from the Right)

A. CONSTITUTION OF THE RADICAL REPUBLICAN AND
RADICAL-SOCIALIST PARTY

(*Statut et Règlements du Parti*, votés au Congrès de Biarnly,
1936 Translated by the editors)

SECTION I MEMBERSHIP

Article 1. There is hereby formed among the members of groups, delegates, and newspapers adhering to the present constitution an association named *Parti républicain, radical et radical-socialiste*, whose location is in Paris

The party program is its charter. It is obligatory for all adherents that they accept the constitution and rules of the party

Article 2 Membership, as referred to in Article One, is open to the following

1) All groups mentioned in Articles 4 and 7, which agree to the financial dues provided in Article 24, and all of whose members are supplied with valid party tickets for the current year

2) Newspapers which defend party doctrines are enrolled with the *fédération départementale*, and pay party dues as described in Article 24

3) All supporters or delegates enrolled with a local committee and holders of party tickets

Article 4 Party members elected to office and the Executive Committee should contribute in every way and with all their strength to the organization and development of committees and groups designed to propagate the principles, the program and action of the party by the formation

- 1) of municipal and communal committees,
- 2) of cantonal committees,
- 3) of arrondissement or legislative district federations,
- 4) of departmental federations

SECTION II THE CONGRESS

Article 9 (Composition)

- 1) Members ex-officio defined in paragraph 2 of Article 13
- 2) The editor of each newspaper adhering to the party
- 3) Delegates of *fédérations départementales*, and local committees
- 4) Delegates from the Executive Committee.

These people meet each year in a Congress in the city designated by the preceding Congress .

Article 10 Special rules adopted each year determine the conditions and duties of the Congress .

SECTION III EXECUTIVE COMMITTEE

Article 11 In the interval between Congresses, the party is administered and represented by the Executive Committee which sets up the permanent committees and selects, among its members, a Bureau according to the provisions of Article 14

Article 12 The Executive Committee shall deliberate on all questions relating to the interests of the party, and agree upon measures adopted to that end

It deals particularly, under conditions prescribed in the party statute and regulations, with questions relating to the organization, propaganda, discipline, and administration of the party

Article 13 The members of the Executive Committee are named, each year, by the Congress. They shall have been members for at least two years of a subordinate Committee

The following are members ex-officio of the Executive Committee, provided they are enrolled with a local committee -

1) Senators, Deputies, members of Departmental Councils, Arrondissement Councils, Municipal Councils of cities with at least 50,000 inhabitants

2) The honorary Presidents and Vice Presidents, past Presidents and Secretaries General of the party

3) The President and Secretary-General of each *fédération départementale*

4) The President and Secretary-General of each *fédération départementale* and of the Young Radicals

Article 14 The Executive Committee elects, by secret ballot among its members, a Bureau which, placed under its permanent control, is charged with the management of current business

The Bureau, chosen exclusively from among members of the Executive Committee, is composed of thirty-three members elected for two years

One President,

Sixteen Vice-Presidents, of whom eight are members of Parliament,

Sixteen Secretaries, of whom eight are members of Parliament . .

SECTION IV. FINANCES

Article 22 The resources of the party are derived from

- 1) The sale of party tickets
- 2) The annual contributions of groups, committees and fédérations, and those of adhering newspapers
- 3) The annual contributions of members of the Executive Committee Senators, Deputies, elected delegates, ex-officio members, delegates designated by the Congress
- 4) Gifts and subscriptions
- 5) The sale of literature

Article 23 The party ticket is obligatory for all adhering members
The price is 4 francs per ticket

B CONSTITUTION OF THE REPUBLICAN FEDERATION

(*Fédération républicaine de France, Extraits des Statuts du Parti* Translated by the editors)

Article 1. The citizens, committees, and associations adhering to this constitution form an Association named the *Fédération républicaine de France*, which will be governed by the law of July 1, 1901, and by the following provisions

Article 2 Its location is in Paris, 36, Rue de Varenne (7th arrondissement)

Article 3 It has for its object to unite all republicans, in a spirit of friendship and national grandeur, for the application of the maxim "Liberty, Equality and Fraternity," and the principles formulated by the Declaration of the Rights of Man and of the Citizen

Article 4 Citizens, committees, and associations are admitted as members of the Association on the recommendation of the Executive Committee of the National Council

Article 5 The members of the Association include

- 1) Participating Members who organize and manage the Federation, they have the right to vote in the General Assembly, they may fill elective offices

- 2) Active Members belonging to an Association or Committee affiliated with but not directed by the Federation, who are represented in the General Assembly by delegates as provided in Arti-

cle 7 below, unless they have been delegates they cannot be elected to the National Council or the Executive Committee

3) Adhering Members who agree to accept the program of the Republican Federation and to aid in its achievement when possible, but without power in the central organ or in the departmental Federations to participate in the administration of the party and its active propaganda, they have no right to vote in the National Assembly, they are not electors nor are they eligible to the National Council or the Executive Committee

Article 6 Adhering and active members do not pay any dues to the National Federation

Article 7 The Association meets whenever necessary but at least once a year in National Assembly at which the following are gathered

1) Participating Members admitted at least three months prior to the session,

2) Delegates of adhering associations and committees, delegates are elected by their associations and committees with an allotment of one for each fifty contributing members, or for each fraction thereof

Article 8 Every year there is formed among the participating members several permanent committees, five of them are obligatory and are named by the first General Assembly, they are in charge of the program, the propaganda, organization, discipline, elections, and the budget

Article 9. The Association is administered and directed by a National Council composed of presidents of departmental federations of the party, ex-officio, and of at least one hundred members elected by the General Assembly as representatives of professional and political interests.

The Council may announce the exclusion of a member of the Federation by a two-thirds vote

It meets whenever the Executive Committee so directs, it must meet every two months

Article 10 Every two years, following the selection of one-fifth of its elected members, the Council names a Bureau which is composed of a President, fourteen Vice-Presidents, a Secretary-General and a Treasurer

The Bureau belongs to the Federation

Article 11 The Council may delegate all or a part of its powers

to an Executive Committee composed of the Bureau and of thirty of its members

The Committee meets at will and at least once a month

105 PRINCIPLES AND PROGRAMS OF REPRESENTATIVE PARTIES

The multiplicity of French political groups makes selection necessary in a presentation of their programs. The three programs given below were chosen to provide one representative, respectively, of the Right, Center and Left. The extreme parties are omitted, both the reactionary Conservatives of the Right, and the Communists of the Left.

A PROGRAM OF THE REPUBLICAN FEDERATION

(*Extraits du Programme de Politique Intérieure, Fédération Républicaine de France, 1935* Translated by the editors)

I OUR PRINCIPLES

Our domestic policy is dominated by the definition of liberty inscribed by the French Revolution in the Declaration of the Rights of Man and of the Citizen. "Liberty consists of doing those things which do not harm others, that is to say, in the exercise by each person of his natural rights, but within limits that assure to other members of society the enjoyment of the same rights."

a) *Defense of Essential Liberties*—This principle leads normally to certain political postulates: liberty of conscience, liberty of the press, liberty to teach, liberty of association, with no other reservations than those resulting from the criminal character of actions committed by individuals, for which they are properly responsible.

b) *The Separation of Powers*—This system, which is superior to all others in fairness, ideals and law, makes for the collaboration of several powers: legislative, executive, judicial. These powers are separate but they balance each other.

c) *Organization of Universal Suffrage*—Democracy will be only a vain word unless there be universal suffrage, that is to say, so long as all may not vote, and even then with electors uncertain of being

represented in Parliament, the political power will be unequally distributed

d) *Tactics of the Federation in Relation to Neighboring Parties*—In Parliament necessary political stability will be obtained by the co-operation of parties or groups which have the largest number of common ideas and the fewest contradictory ideas .

II OUR PRACTICAL DOCTRINES

The anticollectivism and the liberalism of the Federation have led it to oppose all forms—blocs, cartels or common front—of alliance for power between radicalism and socialism or revolutionary communism which would combine to create a state of great power against the individual

Constitutional Reform—Since its foundation, the Republican Federation has demanded the creation of a Supreme Court charged with the guarantee of fundamental rights and liberties, fundamental to the family, the individual and *la patrie*, to control the constitutionality of laws

Governmental Reform.—The Federation has long proposed the reform of executive power On May 25, 1917, our president introduced in the Chamber a resolution to create a permanent administrative service under the President of the Council

An Electoral Law—Since its foundation its members have participated actively in the campaign in the country for proportional representation Their tenacity led to a vote on the "hybrid" law of 1919

The Federation has not stopped here on June 5, 1930, it submitted five propositions in a law for universal suffrage

The question of the equality of election districts was also placed before the fifteenth legislature The Federation has always protested against inequality in political power of electors

Parliamentary Organization—In the realm of parliamentary organization the Federation has always fought for a reform of rules, a decrease in the number of deputies

The President of the Republic—The President of the Republic was given powers by the Constitution According to the organic law of February 25, 1875, he has, concurrently with the Chambers, the initiative in laws Other articles of the Constitution confer on him regulative power, the right of a message, the right of demanding a reconsideration by the Chambers, the right of dissolution

It is less important to give him new powers than to restore those which have fallen into disuse, particularly the power of dissolution

B PROGRAM OF THE DEMOCRATIC ALLIANCE

(*Le Manifeste de l'Alliance Démocratique*, April 3, 1936
Translated by the editors)

The Democratic Alliance, autonomous party of Republicans of the Left and of Radical Republicans, exhorts electors sincerely attached to *la Patrie* and to the Republic to accomplish their civic duty with discipline and without hesitation, and to vote resolutely for the program below, which alone can assure, in a spirit of national reconciliation and respect for the principles of democratic liberty, the prosperity of the country and the creation of a rejuvenated Republican order

FOREIGN AFFAIRS

The Democratic Alliance declares that, in the interests of peace, and in view of actual events, France ought to consent unanimously to sacrifices necessary for national defense, to neglect no occasion for sincere and lasting understanding with every people, to maintain and improve their traditional friendships and alliances, and finally to support the League of Nations, in complete respect for engagements taken, and for the organization of collective security and the work of conciliation necessary to maintain peace

DOMESTIC POLICY

Reform of the State and Public Powers —A free democracy, the French Republic demands for growth and prosperity with social order and peace

a) A government based on authority and stability, safeguarded against demagogic emotion and controlled by assemblies representing popular sovereignty

b) A reform of the electoral regime instituting proportional representation, with reduction in the number of Deputies, adoption of the family vote, and woman suffrage.

c) An independent judicial power . . .

d) A modern and disciplined administration, fitted to serve the state and public interests.

Economic Policy—The return of confidence, which alone can assure business revival, requires

A In the Financial Domain

- 1) A sincere and genuine balancing of the budget.
- 2) The stability of the franc.
- 3) Profound financial reform, including especially a decrease in the number of taxes and relief from taxes
- 4) The suppression of parliamentary initiative in expenditures. . .

B In the Economic Domain

- 1) The protection of production, especially agricultural production, in order to obtain a new evaluation of products of the earth . .
- 4) The reduction of state privileges in economic matters
- 5) The protection of savings, in particular through the strict application of existing laws. . .
- 8) A fight against extreme combinations of interests and the defense of individual activity.

REFORMS AND SOCIAL PROGRESS

The solutions demanded by the Democratic Alliance to solve economic, financial and political problems will permit the maintenance and development, in a rejuvenated republican system, of a bold policy of reforms and social progress, which is the condition for the maintenance of peace, of concord and of national reconciliation between citizens profoundly divided today . .

For the individual, the Democratic Alliance demands

- 1) The protection and improvement of the conditions of work, intellectual and manual, without distinction of sex
- 2) Facilities of work and of credit, allowing him to own property through saving .

For the family, the Democratic Alliance demands

Assistance and encouragement to large families, the maintenance of the ancient rights of the family in the education of children with respect to liberty of conscience and to liberty of instruction, strict academic neutrality.

For agricultural peoples

An agricultural policy aimed to counteract the desertion of the country districts and to restore the purchasing power of rural populations by a new evaluation of products of the soil

For laborers

A strict application of laws voted in their favor, particularly in that which concerns trade unions, labor credit and the organization of apprentices.

For industry and commerce, the Democratic Alliance demands

Relief from taxes, permitting the lowering of prices

A protective tariff assuring preferences to city and colonial industry in the benefits of the home market .

A policy tending to stabilize money and to allow free circulation of capital

C. PROGRAM OF THE SOCIALIST PARTY

("La Résolution du Congrès d'Avignon," *L'Europe Nouvelle*, April 29, 1933) ¹

The Socialist party is a party devoted to the class struggle . . . By its aims, its ideals and by the means it uses, the Socialist party, while pursuing reforms or the immediate ends insisted upon by the working class, is not a party of reform, but a party of class struggle, and of revolution The elected candidates of the party form in Parliament a group opposed to all bourgeois factions

Yet the Socialist party does not fail to recognize nor does it underestimate the importance of immediate reforms sought by the working class extension and consolidation of political liberties, development of social legislation, safeguarding of union rights, etc. The party believes that a part of its permanent and daily duty is to seek these ends and that it can thus actively promote progress toward socialism,

The Congress . . . rejects and has always condemned in the most categorical fashion all antiparliamentary demagoguery, the fatal effects of which it has seen both in France and abroad In whatever concerns its own group in Parliament, the Congress understands that the mission with which it is charged requires special tactics

¹ Translated by the editors Reprinted by permission of *L'Europe Nouvelle*, Paris

It realizes the necessity of retaining intact the prestige and, consequently, the freedom of action of the parliamentary representatives to oppose other parties and governments .

But, with these reservations, the Congress recognizes that the division of power in parliament makes it possible to support governments formed by bourgeois parties . .

D. PROGRAM VOTED BY THE SOCIALIST CONGRESS AND COMMUNICATED TO THE RADICAL PARTY, MAY 31, 1932

(*L'Europe Nouvelle*, June 11, 1932) ¹

The party believes that the gravity of the situation at home and abroad will not permit it to refuse offers of governmental collaboration which it might receive from the Radical party

Governmental collaboration between the two parties assumes a program which will be common to them

The Socialist party defines as follows the actions which it regards as necessary immediately

1) The organization of peace through the co-operation of nations and through obligatory arbitration

The reduction of military expenses

2) The prohibition of traffic in armament, immediate control and nationalization of the manufacture of arms

3) The balancing of the budget assured by other measures than the decrease of expenditures for social, educational, and agricultural purposes, or the reduction of salaries and allowances of veterans

4) The protection of investments and the control of banks

5) The defense of agricultural production against speculation and the underselling through public offices of feed and wheat

6) Balancing the accounts of the network of railways, not through increases in rates or by the decrease of the salaries of workers, but through the termination of control by the companies, the organization of a single national system and an office in charge of all transportation.

7) The creation of a general insurance system designed to guarantee the worker against the miseries arising out of unemployment, and agriculture against hardships caused by weather, such a creation

¹ Translated by the editors Reprinted by permission of *L'Europe Nouvelle*, Paris

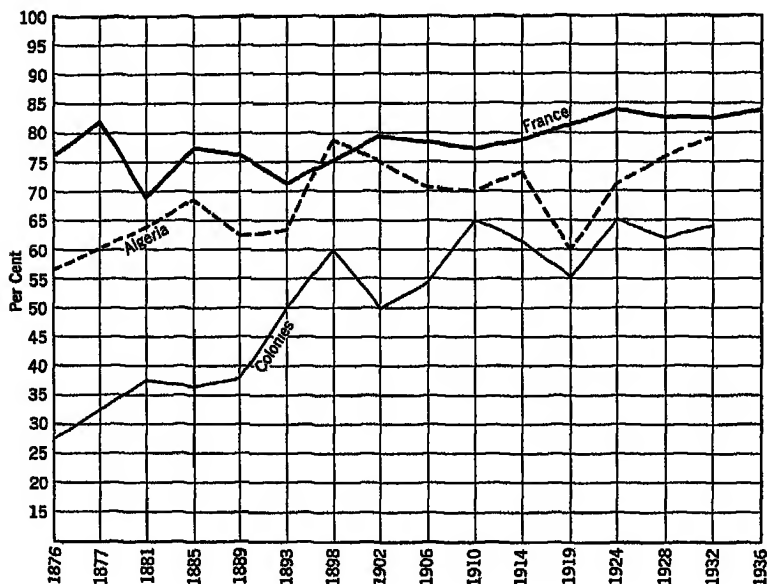
being impossible through a return by the nation to a private insurance monopoly

8) The application of a legal week for workers of forty hours with reduction of salaries according to the program of the C G T (*Confédération Générale du Travail*)

9) General political amnesty

106. VOTING IN FRANCE

It is always a matter of interest, in a democracy, to know how large a percentage of the qualified voters actually vote. The accompanying chart covers elections for the Chamber of



Deputies from 1876 to 1936, a total of sixteen elections. Percentages are also given for voting in Algeria and the colonies for all but the election of 1936 (R de Beauplan, "La France Electorale," *L'Illustration*, CXCI, April 25, 1936, 473.)¹

¹ Reprinted by permission of *L'Illustration*, Paris.

107 WOMAN'S SUFFRAGE

Although France has had a wide basis of manhood suffrage for many years and considers herself generally to be a modern democracy, she has thus far made no provision for woman suffrage. The issue has been before the country many times, especially since the World War, and increasing popular interest has been displayed toward it. The greatest opposition to bills introduced on the subject has been encountered in the Senate. In 1932, when the question was before the country, the following article was written in behalf of woman suffrage by a well-known French political writer (L. Joxe, "Le vote des femmes," *L'Europe Nouvelle*, XV, July 2, 1932, 808-10.) ¹

After some delay the Senate finds itself faced with M. Louis Martin's bill concerning woman suffrage. Is it necessary to reproduce the long history of the question before the High Assembly? Is it necessary to recall that the principle of woman suffrage has been accepted since 1919 by the Chamber, following the victorious efforts of Anstide Briand and Viviani, and to remind one of the harsh treatment given by the Senate to the triumphant Chamber vote of 329 against 35? In naming a hostile commission to the project submitted to it, the Senate proved to the country "that it was unwilling to promote an adventure in which the Republic might founder" . . .

Following the report of Alexandre Berard, debates in public session would have taken place in November, 1922. The Senate refused then by 156 votes against 134 to pass to the discussion of the articles.

In the discussion which has just begun we shall see the same arguments of 1922 and 1928 revived. The arguments of the opponents are strikingly weak. We shall see again appeals to morals, sentiment, and tradition. We shall be told again that women are exalted to a position of higher esteem than that of men, and M. Raymond Poincaré cannot speak without emotion of those who, during the war, directed the municipalities from which the

¹ Translated by the editors. Reprinted by permission of *L'Europe Nouvelle*, Paris.

men had departed. On the contrary, we know in Parliament men unworthy of the mandate confided in them and we can evaluate the standards of certain electors.

It is useless to insist. The same people who, in opposition to woman suffrage, make use of arguments taken from history and from civic instruction, do not believe in them. As to those who see in woman an inferior creature or, to cite Michelet, a "permanently disabled" one, they have only provided an occasion for speeches by the honorable M. Duplantier, the first one famous, and the second slightly less successful.

Fundamentally the question is then essentially political. It is only to fundamentals that we adhere.

A glance at the map of Europe suffices to show that France remains one of the few countries where women do not vote. Without doubt, Senator Labrousse has said, the countries which have given women the right to vote regret it. This is the first argument, given seriously. It is necessary to dwell on it, it requires an examination.

How can it be explained that, far from being restricted, woman suffrage has been extended during recent years? How explain that Republican Spain, acting freely, accorded more political rights to women than Monarchical Spain, and England gave them the right to vote in general elections after having limited them to municipal elections?

Here is a second argument, it is that invoked by M. Marrand. It is necessary, before giving women the right to vote, to educate them politically. The answer to this was recently given at Paris by Mme. Campo-Mayor, delegate in the Spanish Cortes: "Men refuse the right to women under the pretext that they are not prepared, but they refuse eternally to prepare them for the day when they may exercise rights."

Here is a third argument: woman suffrage will strengthen the extreme parties. To that it may be replied that nothing of this sort has happened to date in countries which have adopted it, even in those where misery may be a bad counsellor. In Germany, for example, a smaller proportion of women have voted for Hitler than of men.

If the results would not be changed on account of participation, how is it possible to object? The answer is as follows: political programs will scarcely be affected, but social programs will be

greatly perfected That is the important point Thus one might see in the British general elections, that the candidates modified their professions of faith three months before the balloting because women had just received the right to vote

CHAPTER XVII

THE JUDICIAL SYSTEM

108 THE CIVIL CODE

DURING the Empire of Napoleon I the laws of France were organized into a series of codes dealing with civil law, civil procedure, criminal procedure, and commerce. With some amendments attached to them, they remain in force today. This codification of the law contrasts strikingly with the English common-law system. The following extract, from the Civil Code, contains the law relating to the conditions which are essential to the validity of contracts (*The French Civil Code*, translated by H. Cocharde, pp. 256-59.)

1108 Four conditions are essential for the validity of a contract. The consent of the party who binds himself, the capacity to contract, a special object forming the substance of the agreement, a licit cause for the obligation. Civ. C. 1109 et s., 1123 et s., 1126 et s., 1131 et s.

I. OF CONSENT

1109 There is no valid consent if the consent has only been given by error or if it has been obtained by violence or procured by fraud. Civ. C. 1110, 1117, 1235, 1304, 1377, 1641.

1110 Error is not a cause of avoidance of a contract unless it rests upon the very substance of the thing which is the basis thereof.

It is not a cause of avoidance when it rests only upon the person

with whom one has the intention of contracting, unless the person himself is the principal cause of making the contract Civ C 180, 1117, 1304, 1356, 1376, 2053

1111 The use of violence against the person who has contracted the obligation is a cause of avoidance, even if the same has been practised by a different person from the one for whose benefit the contract has been made Civ C 180, 387, 1117, 1304

1112 There is violence when it is of a nature to produce an impression upon a reasonable person and when it can create fear of exposing his person or fortune to a considerable and present evil

In such a case the age, the sex, and the condition of the person are taken into account Civ C 1113, 1114, 1115

1113 Violence is a cause of avoidance of a contract not only when it is made use of against the contracting party, but also when it has been made use of towards her husband or his wife or the descendants or ascendants.

1114 Reverential fear alone towards the father or mother or other ascendant, without the use of any violence, is not sufficient to annul a contract

1115. A contract can no longer be attacked on account of violence if, since the violence has ceased, the contract has been either expressly or tacitly approved, or if the time fixed by law for restitution has been allowed to pass Civ C 892, 1117, 1304, 1338

1116 Fraud is a cause of avoidance of a contract when the contrivances made use of by one of the parties are such that it is evident that without them the other party would not have made the contract

Fraud is not presumed and must be proved Civ C 1109, 1117, 1319, 1320, 1338, 1341, 1353, 1382, 2268

1117 A contract made by error, violence or fraud is not void by right, it only gives rise to an action for avoidance or rescission in the cases and in the manner explained in section 7 of Chapter V of the present Title Civ. C 1304, 2268

1118 Lesion only vitiates agreements in certain contracts or with respect to certain persons, as shall be explained in the same section

1119 A person can in general only bind himself and stipulate for himself in his own name Civ C. 1120, 1121, 1165, 1236, 1984

1120 Nevertheless, a person can answer for a third party promising that the latter shall do a thing, subject to damages against the person who has so answered for another, or who has promised to ob-

tain another's ratification, if the third party refuses to keep the engagement Civ. C 1166, 1338, 1998

1121 A person may likewise stipulate for the benefit of a third party when such is the condition of the stipulation that the person makes for himself or of the donation which he makes to another person The person who has made the stipulation cannot revoke it, if the third party has declared that he wished to take advantage of it Civ C 1165, 1275, 1690, 1973, 2148

1122 A person is supposed to have stipulated for himself and his heirs and legal representatives unless the contrary is expressed or should result from the nature of the contract Civ C 724, 1119, 2235

109 THE ORGANIZATION OF THE COURTS

As the diagram on page 343 shows, there are two sets of judicial authorities in France, the "ordinary" and the administrative courts A *Tribunal des Conflits* decides jurisdictional disputes which may arise between them (Francis Deak and Max Rheinheim, "The Machinery of Law Administration in France and Germany," *University of Pennsylvania Law Review*, LXXXIV, 1935-36, 848) ¹

110 THE COURT OF CASSATION

As the diagram of the French court system indicates, the highest court in France for civil and criminal cases is the Court of Cassation The article below describes its organization and functions (O S Tyndale, "The Organization and Administration of Justice in France," *Canadian Bar Review*, XIII, 1935, 569-70) ²

This Court sits in Paris and is composed of the first president, three presidents of Chambers, and forty-five judges, called *Conseillers* Each of the three Chambers is composed of sixteen members, of whom eleven must sit in order to dispose of a case This

¹ Reprinted by permission of the authors and of the *University of Pennsylvania Law Review*

² Reprinted by permission of the author and of the *Canadian Bar Review*, Toronto

Le diagramme illustre la hiérarchie de l'organisation judiciaire française, divisée en deux branches principales : la Cour de Cassation et le Tribunal des Conflits.

Cour de Cassation (à gauche) :

- Chambre des Requêtes
- Chambre Civile
- Chambre Criminelle

Tribunal des Conflits (à droite) :

- Conseil de Préfecture
- Cour de Comptes
- Conseil Contentieux des Colonies
- Conseil de Révision
- Conseil de l'Instruction Publique

Cour d'Appel (au centre) :

- Civile
- Correctionnelle

Tribunal Civil (à droite) :

- Civil
- Correctionnelle

Cour d'Assise (en haut à droite) :

- Cour d'Assise

Juge de Paix (en bas à droite) :

- Civil
- Police

Conseil des Prud'hommes (en bas à droite) :

- Conseil des Prud'hommes

Tribunal de Commerce (en bas à droite) :

- Tribunal de Commerce

Court does not concern itself with the facts of a case, and never makes a decision which finally disposes of the claims of the parties. It decides whether the lower Court has violated or falsely applied the law, and, if so, the decision of such Court is *cassée*, i e., broken or set aside, but no other judgment is substituted for it. The case is sent back to be tried over again, not by the same tribunal, but by another of the same degree.

The three chambers of the *Cour de Cassation* are called.

(a) *La Chambre des Requêtes*. This chamber holds a kind of preliminary enquiry in order to dispose immediately of the *pourvois* (as the appeals to the *Cour de Cassation* are called) which appear to be unfounded. If, on its face, the matter seems serious, this chamber sends it on to

(b) *La Chambre Civile*, where the question is thoroughly debated.

(c) *La Chambre Criminelle* as such, which deals only with *pourvois* in criminal matters.

The Court sometimes sits as a whole in solemn session *en chambres réunies*, when it must be composed of thirty-four members, including the president. This happens when, after a judgment of a lower court has been *cassé*, another court of the same degree to which the matter has been assigned renders judgment on the same illegal basis. If the second judgment is *cassé* by the united chambers, the lower court to which the matter is then assigned is bound to accept the ruling.

It is to be noted in this connexion that the doctrine of *stare decisis* does not apply in France, so the decision is absolutely binding only in the particular case. Nevertheless, of course, the moral influence of the court is very great. Generally speaking, the decisions of the higher courts are treated with considerable respect, but they are frequently criticised by commentators and are by no means universally followed. The views of well-known commentators, referred to as *la doctrine*, are cited quite as frequently as judicial decisions, which are referred to as *la jurisprudence*.

1.1.1 PROCEDURE IN CRIMINAL CASES

Procedure, both in civil and criminal cases, is in many respects at variance with that of English and American courts. The extract below outlines the procedure of the *Assize Courts*.

in France where serious criminal cases are tried. It indicates the French use of juries, the method of examining witnesses, and the relative positions of the defense and the prosecution. (O S Tyndale, "The Organization and Administration of Justice in France," *Canadian Bar Review*, XIII, 1935, 666-67) ¹

The court sits with a jury of twelve citizens. The following are the principal points of interest from our point of view.

(a) After the formation of the special panel of jurors, the trial proper begins with a preliminary interrogation of the accused by the president, to establish his identity, and to elicit such information as he can concerning the alleged crime.

(b) At the trial the witnesses are heard in open court, before the judges and the jury and *coram publico*.

(c) The president of the court is in charge of the examination of the witnesses. In principle, they are asked to testify on the facts concerning which they have been summoned, but the president has the power, which he exercises freely, of questioning the witness on all relevant facts.

(d) When the president has completed his examination of the witness, the other judges, the *procureur-général* and the members of the jury, have the right to examine him, after requesting permission from the president. The defence has not the legal right to examine the witness directly, but may request the president to put questions to him. In practice, however, the president, on the request of counsel for the defence, frequently orders the witness to answer such questions as defence counsel may put to him, provided the questions are legal in the president's opinion.

(e) After the evidence is completed, the prosecuting counsel (and counsel for the private prosecution if any) addresses the court and the jury, then counsel for defence. The prosecution may reply, but if it does the defence counsel can speak again, for, by law, he must always have the last word.

(f) The president of the court then addresses the jurors as to their duties, but he makes *no summing up* of the case. He is forbidden by law to do so, on pain of nullity of the proceedings.

¹ Reprinted by permission of the author and of the *Canadian Bar Review*, Toronto.

(g) The president then submits to the jury written questions which he himself draws up. Apart from the actual commission of the deed the jury may be asked to pronounce on aggravating or extenuating circumstances, or facts which may constitute justification or excuse.

(h) A unanimous verdict is not required. A simple majority is sufficient. In other words, seven votes suffice for a conviction, but in case of a tie the answer is taken to be in the negative. This principle applies not only to the main question as to whether the accused committed the act in question or not, but also to the subsidiary questions concerning aggravating or extenuating circumstances. As to aggravating circumstances, the principle, of course, works in favor of the accused in case of a tie, but it is against him as to extenuating circumstances. The principle is, however, derogated from with respect to facts constituting justification or excuse. Here, an equal vote is held to constitute an affirmative answer in the accused's favor.

112 THE POSITION OF THE JUDGE

Except in specified cases, judges are appointed on the nomination of the Ministry of Justice from persons who have passed special written and oral examinations. In order to take these examinations a person must have obtained the degree of *licencié en droit* and served for two years as an *avocat stagiaire* or barrister's apprentice. Appointment is for an indefinite term.

The article below describes several aspects of the office and offers a number of criticisms, some of which raise serious questions as to the quality of French justice. (Henry Selden Bacon, "On a Ministry of Justice," *Virginia Law Review*, XXII, 1935-36, 176-80) ¹

Prominent among the elements which join to create the position of the French judges is their enormous number. Our own politicians have not done badly in multiplying the judicial population, but not even in the sparsely populated western states, where dis-

¹ Reprinted by permission of the author and of the *Virginia Law Review*, Charlottesville.

tance is an excuse for numbers, have they, with one possible exception, equalled the French record. Comparison with England, with about the same total population, is fairer, though of course differences in distribution of functions make exact comparison difficult. Taking all judges above the rank of justice of the peace (a grade and title taken from England), we find over 4,200 in France against about 225 in England. Making every allowance for differences in work to be done—and they may be cited on both sides—this proportion of eighteen Frenchmen to one Englishman leaves room for question as to waste of human and presumably learned material, and the necessity of going to such an extreme in vulgarizing what is, after all, a fairly important function.

Once appointed, they are safe from removal until they reach seventy and retirement. Therefore, say the unthinking, they are above all political influence. True, for any who may be content to live on starvation wages supplemented by private means and to pass their entire lives in remote little towns, far from true for those of normal tastes and honorable ambitions. It is only after promotion that the salary rises to 22,000 francs a year (which means in 1935 four dollars a day, in a country where a pound of rump steak costs sixty-five cents as of September 1, 1935). Thus many promotions are needed before the salary will support a judge's family, even in the most meager fashion. Promotion, to the adroit, comes often. A judge whose career recently ended held eleven posts in twenty-two years.

From time to time a notion finds expression that there is a certain extravagance in keeping up so many idle courts, and an effort at reform is made. In 1926 Poincaré swept away 228. The reform lasted some three years, against the protests of towns, lawyers, judges and politicians, but in 1929 all but six of the abolished courts were re-established, requiring if not justifying the appointment of some seven hundred new judges.

Between bédouin in villages like Lombes and life in great cities the choice is offered, but only to those who "play the game. In the jungle, it is eat or be eaten." The vivid phrase is that of a man of acuteness and force, Professor Joseph Barthélemy, who warns the aspirant for high judicial office against unwise courses in these pungent words: "Pursue long and costly legal studies. Pass brilliantly the examination for a judicial career. Then simply do your duty. You will have a chance of reaching the retiring age as a judge at

Montélimar" (Montélimar has 9,135 inhabitants and three solicitors, and the salary of an ordinary judge there at the end of his career is 26,000 francs—about \$4.75 a day) Another discriminating Frenchman, Alexis de Tocqueville, pointed out to his fellow subjects a century ago that the fundamental vice of the practice of electing judges, then extending its ravages in the American democracy, was shared by the French system of frequent promotion. He said that the hope of being promoted might do as much to check independence as the fear of not being re-elected. If he had returned to earth to compare the results in 1935 he could have gone further without exaggeration.

113. ADMINISTRATIVE JURISPRUDENCE

In every state difficulties are bound to develop as a result of the acts of administrative officers in their relations to the people. These difficulties may arise from personal faults or mistakes of the officers themselves, or they may arise as an inevitable consequence of some policy which the governmental authorities have quite legitimately authorized. The building of a road, for instance, may have caused injury to adjacent property and yet involve no fault on the part of the road builders. The question is, who, if any one, shall be responsible for such injuries.

In France, complaints which are based on the acts or policies of administrative officials may be brought before a special series of administrative courts, distinct from the ordinary civil and criminal courts in personnel and jurisdiction. In these courts a special branch of the law, known as administrative law, gives the injured French citizen the right to sue the state and its officers. The distinctive feature of this administrative jurisprudence is its willingness to impose a large degree of responsibility upon the state for injuries caused by its policies or by acts of its officers. The questions of liability and of damages are always decided in administrative courts, at the head of which stands the Council of State. A few cases are given under Selection A which illustrate the jurisdiction of the administrative courts and which indicate the type of responsibility ac-

cepted by the state. Selection B deals with France's highest administrative court, the Council of State.

A TYPICAL ADMINISTRATIVE CASES INVOLVING STATE
RESPONSIBILITY

(Louis Trotabas, "Liability in Damages under French Administrative Law," *Journal of Comparative Legislation*, XII, Series 3, 1930, 56-57, XIII, 1931, 59-60 Translated by F. P. Walton.)¹

It is part of the business of a mayor to post up the register of voters which corrects the former list of electors. If, by so doing, he causes damage to anyone there is no detachable act which could make him personally liable. But if the mayor causes a notice to be affixed at the side of the register indicating that a certain person has been condemned to imprisonment and is, therefore, disqualified from voting, this act done on his own initiative is "detachable" from the administrative act, which is all that is within the mayor's competence, and it may make him personally liable.

Similarly, the administrative authority is charged with the duty of drawing up a list of doctors who may be called in by the police for urgent night duty, but if a mayor directs a police officer not to call in a certain doctor whose name is inscribed on the list, and the mayor does so, not out of regard for the public service, but from a personal desire to deprive the doctor of the benefit which he might obtain from being on the list, "revealing in this way *l'homme avec ses passions* (as Laferrière puts it), this is an act detachable from the functions of the mayor, and is in the circumstances a *faute personnelle*."

It is frequently the case that a public work carried on upon lands belonging to the public authority causes by the mere fact of its sale inconvenience and damage to neighbouring owners. A concrete illustration of how the problem presents itself in practical life is afforded by the cases about sloping approaches (*rampes d'accès*). A house is built in the normal way with access to the public road. The administration in carrying out important public work for the improvement in the gradients of the road may find it necessary to elevate the road at this point. The result is that a wall rises

¹ Reprinted by permission of the *Journal of Comparative Legislation*

in front of the house, the ground floor becomes practically a basement and the road passes at the height of the first storey. It is obvious that the owner suffers damage, but the administration has not committed any fault, on the contrary, by executing the work it has improved the conditions of road transport. In such a case, it is the theory of risk which solves the problem. We are in presence of damage caused to an owner of property, the direct cause of this damage is the existence of a public work, and therefore, the administration must pay an indemnity to make good this damage.

The decisions illustrating the application of this theory in regard to public works are innumerable. During the last fifty years the series of cases on the subject dealt with by the *Conseil d'État* covers solutions of the most diverse questions. Only the most typical and the most celebrated can be mentioned here.

In the case of *Chamboredon* the *Conseil d'État* awarded compensation to an owner of land whose well had dried up owing to the springs which fed it having been cut at a distance of about 200 yards from the property by the digging of a tunnel for a public work.

In another case damages were given to the owner of a windmill the working of which had been interfered with by the construction of a dump so large as to break the force of the wind and to alter its direction.

It has also been decided that an owner is entitled to damages if his property is injured by offensive smells from the discharge of a drain.

We find also further decisions confirming the view that damages may be awarded for loss caused by the construction of public works as opposed to their existence. Thus, the keeper of a restaurant receives compensation on the ground of loss of custom caused by the blasting necessitated in the execution of a public work.

Similarly, the lessee of a café or of a garage whose business is interfered with by an obstruction to the approach of the premises caused by work on the roads is entitled to compensation.

And in another case, damages were given to a cheesemonger whose premises were injured for the purposes of his business by the dust from a builder's yard occupied by a public authority.

This line of decisions is extending all the time. The moment private property suffers injury from vibration, cracking, damp, smoke, etc., if the damage is caused directly by the execution or by

the operation of a public work, this involves immediately, apart from all idea of fault, the liability of the public authority to make good the loss thus caused to a private individual by operations designed for the public advantage

The administrative courts take a very broad view of the matter, and in a few cases of an exceptional character they have gone so far as to extend the remedy to injury to the person and not to property as when the public authority was found liable in damages on account of illness caused by effluvia from ground rendered marshy by the construction of a public work

B THE COUNCIL OF STATE

The selection below explains the work of the Council of State, the highest administrative court of France (O S Tynedale, "The Organization and Administration of Justice in France," *Canadian Bar Review*, XIII, 1935, 571-72.)¹

The Conseil d'État is a very important body Under the old régime this name designated what was called in England the King's Privy Council Under the Constitution of 1791 the name was given to the Council of Ministers. In Napoleon's time the Council was completely re-organized and its chief role was to prepare projects of laws and to deal with general questions of administration After many vicissitudes through the following régimes, it was again entirely reorganized in 1872 It is now composed of about 100 members, of whom 80 per cent are regular or permanent, and 20 per cent more or less temporary, as occupants of certain higher judicial and administrative posts The members are appointed by decree of the President, with the advice and consent of the Cabinet, and are, generally speaking, men of high calibre and considerable technical ability Apart from the Councillors themselves there are two subsidiary categories called *Maîtres des Requêtes* and *Auditeurs* These latter categories conduct preliminary investigations and prepare reports They are recruited by means of competitive examinations, and the law requires that one half of the full fledged councillors must be taken from among these specialists The others are usually chosen for administrative experience in other

¹ Reprinted by permission of the author and of the *Canadian Bar Review*, Toronto

spheres—frequently ex-prefects The Council acts in an advisory capacity in legislative and administrative questions generally, and one of its five sections is devoted exclusively to judicial functions

In its judicial capacity it exercises important functions which may be briefly outlined as follows

(a) As a *Court of First and Last Resort*, it adjudicates upon claims of civil servants who allege that they have been illegally dealt with by their superiors in the matter of promotions, pensions, etc., and with the claims of any citizen or corporation against the illegal acts of various administrative officers or authorities

It is this branch of its jurisdiction which is so highly valued by the public generally Joseph Barthélemy in his *Gouvernement de la France* refers in very commendatory terms to the Council's judicial work One cannot conceive, he says, without looking through the reports of its decisions, the infinite variety of the matters with which it deals It protects the owners of real property from the encroachments which the administrative authorities may be tempted to practise It protects the liberty of commerce against oppressive regulations It is the chief weapon of civil servants against favouritism and arbitrary dealings The celebrated author Pierre Loti, who was unjustly retired as a naval officer, obtained an annulment of the decision and was re-instated A corporal in the army who was degraded, as he alleged, because of his royalist activities, obtained an annulment of the unjust sentence The prefect of a department, deprived of his post because of false reports as to his conduct during the war, obtained redress A parish priest illegally interfered with by an anti-clerical mayor sought and obtained protection Barthélemy concludes by saying that the Council of State is the best judge against the State

(b) As a *Court of Appeal*, the Council has the power to review and revise the decisions of the Prefect's Council, etc

(c) As a *Court of Cassation* it can annul the *ultra vires* or otherwise illegal acts and proceedings of various administrative bodies.

114. A PLEA FOR JUDICIAL REVIEW

The laws passed by the French parliament are not subject to review by the courts As far back as 1830, a fruitless effort was made to induce the Court of Cassation to declare unconstitu-

tional a law restricting freedom of the press. Again, in 1851, the Court refused to question the constitutionality of an act of parliament. The wisdom of this position has been attacked by eminent French jurists and several attempts have been made to win support for the doctrine of judicial review as it exists in the United States. In 1928, M. André Blondel, avocat, in the Cour d'Appel, wrote a book urging the adoption of the American system in France. In the discussion below, which follows an exhaustive refutation of arguments against judicial review, he gives in summary form his reasons for believing that the practice would be as sound for France as it is for the United States. (A. Blondel, *Le Contrôle juridictionnel de la constitutionnalité des lois*, 1928, pp. 374-78) ¹

From this comparative study of the American and French constitutional systems, it is possible to see that there is a governmental principle in both countries which demands some method of passing upon the constitutionality of laws. The principle is that rigid constitutions require independent tribunals to pronounce the law. In the United States, historical precedents encouraged and foreshadowed the establishment of judicial control. But in France, tradition was opposed to it and has operated as a powerful influence to prevent its establishment. The records of the early parliaments, instead of supporting a system of judicial review, have served as a warning against it each time the judiciary has been reorganized. The legislative power, which in the United States was made subject to the Constitution and placed on a level with the other branches of government, has, in France, been made the center of our governmental system. It became a privileged body, in practice it continues to be. That is one of the principal reasons why France has rejected the theory of judicial review. Without discussing further the merits and demerits of the arguments against such a system, it is possible to suggest certain conclusions which appear to be valid not only for the United States and France, but for all countries with similar constitutional structures.

(1) Judicial control of legislative acts is a normal attribute of

¹ Translated and adapted by the editors. Reprinted by permission of Société anonyme du Recueil Sirey, Paris.

rigid constitutions which are designed to remain superior to ordinary legislation.

(2) The legislative body ought not to exercise any power of the ultimate sovereign. The legislative power is created in the same manner as the executive and the judicial. It, like the others, should be subject to law, and particularly to the higher law of the Constitution.

(3) Law is to be simply the statement not the creation of tribunals, civil or administrative.

(4) The ordinary courts are best qualified to pass upon the constitutionality of laws. They possess this qualification because they are in a position to see that the superior law is enforced above the inferior.

(5) The law which the judges ought to enforce should consist first of the written constitutional laws. These laws are sufficient in countries whose constitutions are very comprehensive, as in the United States, but in France, under the Constitution of 1875, where the laws of legislative procedure are brief and simple, the guardianship of the courts should be extended not only to written but to customary constitutional principles. Of the latter, here are examples: most of our modern liberties, formerly protected by successive Declarations of Rights, . . . the principle of the separation of powers, the prohibition against *ex post facto* laws, the provision for annual budgets, etc.

The constitutional practice of judicial review should be introduced into France. It has functioned long and well in the United States and has been adopted in more and more countries. In this book it has been the aim to prepare the ground for it and to show that it should no longer be opposed. In fact, conditions have become more and more favorable to it.

Yet if the proposed change is regarded as a panacea matters will be worse than they are now. It has been argued that judicial review would induce legislators to make bad laws. The danger will be greater still if that practice leads to a lack of interest on the part of citizens in public affairs and to a reliance entirely upon judges for protection against the highest power in the state.

CHAPTER XVIII

POLITICAL AND SOCIAL PROBLEMS

115 THE "NEW DEAL" OF THE POPULAR FRONT

THE economic conditions described under Selection A below led to a coalition of the Communist, Socialist, and Radical Socialist groups in the Chamber into what came to be known as the "Popular Front." The election of May, 1936, gave the Popular Front a substantial majority in the Chamber. Consequently, demands were made, particularly by the *Confédération Générale du Travail*, for extensive economic reforms. During the summer of 1936 many laws were passed affecting child labor, collective bargaining, wages and hours, and other social and economic conditions. At the time of the Czechoslovakian crisis in 1938 the law on the forty-hour week was considerably modified to meet the emergency. Less radical ministries during the latter part of 1938 showed little enthusiasm for some of the legislation. With the beginning of the European War emergency in 1939, it was abandoned at many points. Selection B is a list of the principal laws which, taken together, constitute the French "New Deal." The remaining selections provide the text of selected statutes.

A THE POPULAR FRONT

(The Hon George Peel, "French Finance in Perspective," *The Fortnightly Review*, CXLVIII, 1937, 548-50) ¹

For some years prices in France, whether wholesale or retail, had been falling—up to about the middle of the year 1935. At the same time, and during the same years, there had been an effort, rather intermittently pursued, but pursued with greater energy as time proceeded, to deflate, or, in plain terms, to reduce wages and prices. Into the reasons for that policy it is not necessary to enter. Suffice it that this method found its fullest expression during the Governments of MM Doumergue and Laval. The result of this was that there was a tendency for industrial wages to contract . . .

From the middle of 1935, however, the retail prices began to soar, and between the spring of 1936 and the early summer of this year the cost of living increased by some 30 per cent. That phenomenon of *la vie chère* had a great effect upon the industrial classes of France. And very naturally. For they found that the nominal amount of their wages was now buying less, owing to the rise on prices which was now taking place. There was a great disturbance. There were profound movements of public opinion. The political effect of all this was, we know, the *Front Populaire*—a coalition of groups, unique in the history of France. Under the pressure of this economic evolution, and under the pressure, too, of the corresponding rise of Fascism, these three parties [Communist, Socialist, and Radical Socialist] swore a solemn oath of reconciliation. At the same time, they put forward a most extensive programme of economic policy and financial reconstruction.

No one thought at the time that M. Léon Blum would be able to put his programme into execution, for, after all, though the Socialists were a very large party, they were, of course, in a considerable minority in the Chamber as a whole. Nevertheless, much to the surprise of the general public, M. Blum managed to enact a considerable part of his economic programme during the remainder of the year 1936.

If we study this economic programme we shall be struck by the fact that it was not a Socialist programme, although the Prime Minister himself was of that persuasion. Nor was it a Communist

¹ Reprinted by permission of *The Fortnightly Review*, London

programme If Socialism means the complete control of industry, or at any rate the profits of industry, by the State, then it was not a Socialist programme Or if Communism means the economic equality of all men within the State, then the programme was not Communistic either Nor was the programme a Radical-Socialist programme, which, to judge from the history of that party, does not seem to imply any economic programme of definite quality

The economic hypothesis of the *Front Populaire* programme is a simple one, and has had the support of many distinguished economists The hypothesis is that the purchasing power of the people should be increased *l'extension du pouvoir d'achat* In defence of this economic plan, it was argued that, if more purchasing power were provided for the people, then they would be able to buy more goods In this way industry would be revived, and the whole of the economic situation of France, which was not very reassuring, would be rectified

B LIST OF THE PRINCIPAL LAWS OF THE "NEW DEAL," 1936

(*L'Europe Nouvelle*, XIX, August 29 and September 12, 1936, Supplements Translated by the editors)

- 1 Vacations with pay (June 20)
- 2 The forty-hour week (June 21)
- 3 Collective bargaining (June 24)
- 4 Bank of France (July 24)
- 5 Nationalization of war industries (August 11)
- 6 Prolongation of the period of education for children (August 7, 11)
- 7 Credit to small business (August 13)
- 8 Temporary aid to commercial, industrial and agricultural enterprises (August 19)
- 9 Law preventing high prices (August 19)
- 10 Moratorium to agricultural producers (August 20)
- 11 Moratorium to industry and commerce (August 20)
- 12 National Wheat Office (August 15)
- 13 Law advancing retirement age (August 18)
- 14 Law on the organization of the coal market (August 18)

C REPRESENTATIVE "NEW DEAL" LEGISLATION

(*L'Europe Nouvelle*, *ibid* Text of statutes translated by the editors)

LAW PROVIDING ANNUAL HOLIDAYS WITH PAY

(June 20, 1936)

The Senate and the Chamber of Deputies have adopted,

The President of the Republic promulgates the following law

Article 1 —The provisions below are annexed as articles 54f to 54j of book II of the labor code.

Article 54f —Every worker employed or apprenticed in an industrial, commercial or liberal profession or in a co-operative society, as well as all journeymen or apprentices belonging to related agencies, has the right, after a year of service with such establishment, to an annual vacation with pay for a minimum of fifteen working days .

Article 54g —The worker, employee, journeyman or apprentice receives for his vacation a daily compensation equivalent.

- 1) If he is paid by time, to the salary which he would have received,
- 2) If he is paid by any other system, to the average remuneration which he received for an equivalent period during the preceding year

Article 54h —Every agreement involving the renunciation by the worker, employee, journeyman or apprentice of the vacation provided by the preceding article, even with the grant of compensating indemnity, is void

Article 54j —A decree issued by the Council of Ministers determines the means of applying these provisions as well as the control of their execution

THE FORTY-HOUR WEEK

(June 21, 1936)

The Senate and the Chamber of Deputies have adopted,

The President of the Republic promulgates the following law:

Article 1—Chapter II (the period of work) of title I, book II of the labor code is amended as follows

Article 6—In industrial, commercial, mechanical, co-operative establishments or their dependencies, of whatsoever nature, public or private, lay or religious, even if they relate to the teaching profession or philanthropy, including hospitals and asylums, the period of work for employees and workers of both sexes and of all ages may not exceed forty hours per week

Article 7—Decrees voted by the Council of Ministers after being advised by the competent professional section or sections of the National Economic Council shall determine by profession, industry or occupational group, for a territory or region, the means of applying the preceding article

Article 8—In underground mines the presence of each worker in the mine shall not exceed thirty-eight hours and forty minutes per week

Article 10—The application of the provisions of articles 6 to 9 shall not affect usages or collective agreements which fix lower limits

COLLECTIVE AGREEMENTS

(June 24, 1936)

The Senate and the Chamber of Deputies have adopted,
The President of the Republic promulgates the following law

Article 1—The following provisions are codified as articles 31va, 31vb, 31vc, 31vd, 31ve, 31vf, 31vg constituting section IV of chapter IV of part II, book I of the labor code.

Section IV

Article 31va—At the demand of a syndical organization, masters or workers, the Minister of Labor or his representative shall assemble a mixed commission with a view to the conclusion of a collective labor contract to regulate relations between employers and employees within a branch of industry or commerce in a part or in all of a given territory

The mixed commission shall be composed of the representatives of syndical organizations, masters and workers, the most representative of the branch of the industry or

commerce for the area considered or, in the event of a national agreement, for the entire country

Article 31vb —If the mixed commission convoked under the preceding article is unable to reach an agreement on one or several of the provisions to include in the collective agreement, the Minister of Labor shall, at the request of one of the parties, intervene to effect a solution of the difference after being advised by the interested section or sections of the National Economic Council

Article 31vc —The collective agreement resulting from the decisions of the mixed commission under articles 31va and 31vb should indicate whether it is concluded for a fixed period or for an unlimited time and should contain provisions concerning

- 1) The freedom to organize and the freedom of opinion of workers,
- 2) The selection, in establishments employing more than ten persons, of elected delegates having the authority to present to the management of individual grievances which have not been directly satisfied, relative to the application of salary scales, the labor code, and other laws and regulations to protect labor
- 3) Minimum salaries by classes and by areas,
- 4) Delayed vacations,
- 5) The organization of apprentices,
- 6) The procedure for the settlement of differences over the agreement,
- 7) The procedure for the modification or revision of the agreement .

THE NATIONALIZATION OF WAR INDUSTRIES

(August 11, 1936)

The Senate and Chamber of Deputies have adopted,

The President of the Republic promulgates the following law:

Article 1.—Before March 31, 1937, the Council of Ministers, by decrees proposed by the Minister of National Defense and War, the Minister of Marine, or the Minister of Air, may announce the total or partial expropriation of establishments subsisting by the manufacture or sale of war materials

The following are war materials

- 1) Firearms and ammunitions,
- 2) Materials destined to support and supplement firearms in combat (combat planes, warships, and vehicles of combat),
- 3) Materials used for protection against gas warfare

116. FINANCE

The World War left France with a huge debt and depleted resources. Inflation as a way out became irresistibly tempting and the franc was cheapened until its position became alarming in 1926. In that year under the leadership of Poincaré the franc was stabilized and France began an era of comparative prosperity. But the world depression after 1929 brought on new problems—unbalanced budgets, the flight of capital abroad, mounting expenditures, and a growing national debt. These difficulties have shaken the economic structure of the country and threatened the stability of the Republic itself. The situation is discussed in the article below (Charles Rist, "The Financial Situation of France," *Foreign Affairs*, XVI, 1938, 601-8.)¹

Two fundamental phenomena characterize the French financial situation of 1938: the flight of capital and the unbalanced budget. Any unprejudiced observer would regard the flight of capital as the result of the unbalanced budget. But not the French public or French statesmen. They are extremely loath to treat the matter so simply. Yet one has only to trace the development of each factor to realize how closely they are related.

The flight of capital from France did not begin yesterday, nor with the rise of the Popular Front to power in June, 1936. It began much earlier. Ever since 1933 the Bank of France has been confronted with an outflow of gold. Measured in terms of the Poincaré franc, the Bank's gold reserves were 81.1 billion francs in 1933, 78.9 billion in 1934, 75.3 billion in 1935, 57 billion at the end of May, 1936, and 50.1 billion on the eve of devaluation in September, 1936. The gold reserve had fallen to 38.7 billion francs on January 20, 1938, although this figure does not include the

¹ Reprinted by permission of *Foreign Affairs*, New York

small amount of gold earmarked for the Exchange Stabilization Fund. These flights of capital originated in the conviction that sooner or later the franc would have to be devalued. They occurred during the ministry of Daladier in 1933 just as they did under Doumergue in 1934 or Flandin and Laval in 1935. But in August and September, 1936, the flow was accentuated and ended in the first devaluation, that of September, 1936.

The decrease in national income resulting from the fall in prices at once manifested itself in budget deficits. As a matter of fact, deficits had begun five or six years earlier and had increased steadily. The budget of 1930-31 showed a deficit of 4.9 billion francs, it grew to 5.5 billion in 1931-32, 6.5 billion in 1933, 8.8 billion in 1934, 10.4 billion in 1935, 7.8 billion in 1936, and reached from 7 to 8 billion in 1937. We are speaking here only of the ordinary budget. To these amounts should be added the expenses which are called in France "les charges de la Trésorerie," and which constitute an extraordinary budget for which no revenue is provided. These additional expenses are estimated at 30 billion francs for 1938. M. Blum estimated that they might reach even 40 billion francs. I shall explain in a moment the nature of these extraordinary expenses.

These deficits have been met by borrowing. Since 1931 the Government has borrowed about 126 billion francs, of which 32 billion (as of March 1938) were advances made by the Bank of France. The British and American Governments were also borrowing during this period, but at very low rates, thanks to the fact that in both countries there was a surplus of capital seeking investment, and to the banks' habit of using their deposits to buy government issues in the open market. The French Government had difficulty in borrowing even at an interest rate of 7 percent or better.

While the Government's income was falling as a result of the causes mentioned, its expenses increased because of the intensification of rearmament, relief for the unemployed, and the growth of the railroad deficit, which is met by the Government. Let me give a few figures to show the financial effects of increased rearmament to keep pace with German rearmament, and of the unprecedented economic depression. The following table considers the French Government's expenditures for 1938 under two heads: those covered in the ordinary budget, and the total expenditure anticipated, including sums in excess of expected receipts.

	ORDINARY BUDGET (in billions of francs)	TOTAL EXPENDITURE (in billions of francs)	PERCENTAGE OF TOTAL EXPENDITURE
Public Debt .	11 6	11 6	16 9
Civil Pensions	5 9	5 9	8 4
War Pensions	5 0	5 0	7 3
National Defense .	10 8	22 0	32 1
General Administration .	19 2	19 2	27 7
Railroads .	2 2	2 2	3 2
Public Works		2 4	3 4
Recoverable Outlays .		0 6	1 0
Total .	54 7	68 9	100 0

Three general observations can be drawn from these figures. (1) The cost of administration is less than one-third of the total expenditure, national defense represents another third, while interest on the national debt and pensions account for the remaining third. (2) The difference between expenditure foreseen in the ordinary budget and the total expenditure really expected is made up, essentially, of two items: increased appropriations for rearmament (12 billion), and the cost of public works to deal with unemployment. If these two items—totalling about 14 billion francs—were eliminated, the budget apparently could be balanced. (3) However, the difference between income and outgo is actually greater than indicated, for the state must make good the railroad deficit and assume certain communal and departmental liabilities, while military expenses are always greater than anticipated. Thus it probably is spending 30 billion francs a year more than it is taking in.

Here is the problem in a nutshell. How can France, whose total national income does not exceed 250 billion francs per year, support a budget of 85 billion, when only 55 billion of that sum is provided by taxes and when the remaining 30 billion must be raised in some other way? The problem is insoluble if the budget is required to provide for the enormous costs incurred by the last war and the even greater cost of preparing for defense against new international dangers. The costs of the previous war can be lightened in only one way: ending the process of amortizing the debt and reducing the interest rate on it. Both steps naturally will encounter serious political resistance. It is so easy for any political party, whatever its hue, to assume the rôle of defender of estab-

lished contracts! But in this particular case any such position would be hypocritical. If the budget is not balanced, the holders of rentes will certainly suffer from a decline in the purchasing power of their income. The restoration of a balanced budget, on the other hand, will carry definite assurance of payment of interest and will thereby increase the market value of government bonds.

117 SOCIAL SECURITY LEGISLATION

The article below explains the peculiar features of the French problem of social security and the measures which have been adopted to meet it (Frances Perkins, "Social Security Here and Abroad," *Foreign Affairs*, XIII, 1935, 377-78.)¹

The French problem has differed from that of Great Britain and Germany, countries where the industrial population predominates. In France, agriculture and industry are more or less evenly balanced and until recently the unemployment problem had never been acute. Hence, provision against the effects of unemployment has played a minor part in the development of French social legislation. On the other hand, concern over the decreasing birth rate shows itself in the provisions made for maternal care, in the birth bonuses and in the family allowances, all of them designed to encourage large families.

Historically speaking, France can claim to have been a pioneer in the field, having set up in 1673 a system of compulsory old age insurance for her seamen, a system which has continued practically without interruption down to the present time. Actually, she was slow in developing a coordinate system, partly because workers were protected against many hazards through the friendly and mutual benefit societies which were encouraged and subsidized by the state. It was not until after she had won back Alsace and Lorraine that she found herself in a situation which demanded action. The people of these provinces had been enjoying the benefits of the German system of health insurance and old age pensions, and it was obviously not feasible either to deprive them of these popular measures or to leave them in a position which would

¹ Reprinted by permission of *Foreign Affairs*, New York

arouse the jealousy of the rest of the country. Hence, after many years of discussion, France in 1930 adopted a fairly comprehensive social insurance act, which does not, however, include any compulsory unemployment insurance. It applies to nearly 9,000,000 workers, and provides old age insurance, cash and medical benefits during illness and invalidity, maternity and death benefits, and medical care for the family of the insured.

The system is compulsory and contributory, one contribution covering all the risks and expenses. The employer and the employee pay an equal amount, the wage earner's share being paid by the employer and then deducted from his wages, and the fund is supplemented by grants from the state. It applies to the wage earner whose income does not exceed approximately \$600 to \$700 a year, depending on the locality in which he lives, but the amount of the exemption is raised for each child, so that a worker earning approximately \$1,000, but with more than 3 children, would still come under the law, although to safeguard the employment of parents of large families the amount of his contribution would be calculated on the lower amount. He pays no contribution if he loses his job, but the government makes good both his and the employer's contribution during the first four months he is out of work. Due to the unexpectedly large increase in unemployment this provision today involves a deficit of nearly 4 billion francs in the French budget.

Pensions amounting to 40 per cent of the average annual wage are granted at the age of 60 to workers who have been employed for 30 years. A worker who wishes to retire at 55 can do so by accepting a lower pension; and it also will be decreased for those who during the transitional period reach the age of 60 before they have been able to make their 30 years' contributions. A worker who has brought three children up to the age of 16 is entitled to an increased pension. On reaching the eligible age, he may also, if he wishes, receive a lump sum instead of an annual pension, on condition that he uses it to buy a homestead. His widow and orphan are entitled to a cash benefit of 20 per cent of his average annual wage and if he leaves 3 or more young children they are entitled to a minimum of 100 francs a year each until they reach the age of 16.

If the workman or his wife or children should fall ill, he is entitled to from 80 to 85 per cent of the cost of medical treatment;

and if he himself is sick for more than 4 days he is entitled to a cash allowance ranging from 3 to 18 francs a day according to his wage class. Maternity and nursing allowances are also granted to insured workers and workers' wives.

French unemployment aid has been handled in the past by trade unions or mutual aid associations, which since 1906 have received government subsidies proportionate to the financial assistance they have rendered. This subsidy was formerly fixed at 33 to 40 per cent of the benefits, depending on the size of the association, for a maximum benefit period of 120 days (later extended to 180) and was reimbursed to the organization after the benefits were paid. But so heavy did the demand on the funds become, due to increasing unemployment, that in the spring of 1932 it became necessary to increase the subsidies.

118 THE BANK OF FRANCE

The Popular Front Government, headed by Léon Blum and supported by Left parties, undertook to reform the Bank of France. An important objective was to bring the bank under the authority of the government. The law of July 25, 1936, giving the bank its new status was passed by the Chamber of Deputies by a vote of 444 to 77, and by the more conservative Senate by 190 to 74. The extract below shows the importance of the Bank in French politics and its new status. (Georges Boris, "Reforming the Bank of France," *Foreign Affairs*, XV, October, 1936, 155-64.)¹

The Bank of France was founded in 1800 by Napoleon Bonaparte, then First Consul. It secured definite status in the laws of April 14, 1803, April 22, 1806, and the decree of January 16, 1808. The Bank was given the right of issuing the nation's currency—in 1848 this became an exclusive right, and in 1897 the privilege was renewed and extended to 1945. One hundred and thirty years have elapsed since the establishment of the Bank of France. One political régime has followed another, an economic revolution has transformed the country, but through it all the Bank of France remained essentially the same.

¹ Reprinted by permission of *Foreign Affairs*, New York.

There are some 40,000 shareholders in the Bank of France. Yet in accordance with Bonaparte's laws, only 200 greatest shareholders had the right of participating in the General Council, i.e., the stockholders' meetings. The General Council chose from among its members the 15 Regents (directors) and 3 Censors (advisers). The state appointed the Governor and two Vice-Governors. The former had to own 100 shares of stock, the latter 50 shares each. Regents, Governors, and Censors—the latter had no voting power—constituted the Regency Council which was the real directing body of the Bank. Thus French economic life was dominated by a financial oligarchy. Only the wealthy—and among them only a few—controlled the Bank of France. To be eligible as one of the 200 greatest shareholders presupposed, until very recently, that one had a minimum investment of 2,000,000 francs (about \$133,000 at present exchange rates).

Throughout the nineteenth century the Bank of France was virtually a state within a state. It never hesitated to oppose and checkmate the Government whenever the latter's policies were not in harmony with its own. Its opposition was particularly strong if cabinets and popular opinion were liberal rather than conservative. The Second Republic suffered the hostility of the Bank, while Louis Napoleon found it favorable to his coup d'état of December 2, 1851, which ended the Republic and created the Second Empire. In 1870, after the surrender of Napoleon III at Sedan, France was invaded by the Prussian army. Gambetta, the organizer of national resistance, threatened to uproot the Bank because of its refusal to give proper financial aid to the cause of national defense.

The intervention of the Bank of France in politics is hardly new. But during the postwar years its power was exercised more frequently and at times decisively. The Bank's influence and means of action increased, for to its old functions it added that of defense of the franc.

The law of July 25, 1936, stipulates that the Bank shall be governed by a Council consisting of the Governor, two Vice-Governors, 20 Regents and three Censors (advisers). The General Assembly of shareholders, each having one vote irrespective of his holdings—will as in the past elect the three Censors. It will also choose two Regents from merchants and manufacturers having no official connection with a banking institution. One Regent each will be appointed by the National Economic Council; the Su-

perior Commission of Saving Banks, the personnel of the Bank of France. The Ministry of Finance will select six Regents from the following associations: the National Federation of Consumers Co-operatives, the National Economic Council, the General Confederation of Labor, the General Federation of Artisans, the Assembly of Presidents of Chambers of Commerce, and the Assembly of Presidents of Chambers of Agriculture. Three Regents will represent the ministries of Finance, National Economy, and Colonies. The remaining six Regents will represent various official and semi-official organizations under the jurisdiction of the Ministry of Finance. No parliamentarian may qualify as Regent. Regents will serve a three year term—the Board being renewable by thirds each year. The Governor and Vice-Governors will as in the past be appointed by the Cabinet, though henceforth they need not be shareholders. Thus of the 23 Regents, 12 are representatives of the state. As the result, the administration of the Bank will be directed by a permanent committee composed of seven members: the Governor, the two Vice-Governors and four Regents, of whom one is to be chosen by the Ministry of Finance. Thus even in the permanent committee the majority will belong to representatives of the State.

Henceforth the Bank of France will be directed in conformity with national interests as interpreted and defended by the Government and its servants. Whatever may happen, the transformed Bank is unlikely to become a center of opposition against a strong, active Government supported by public opinion. Nor will the Bank be able in the future to launch a political offensive under the guise of financial threats and through a subsidized press. Henceforth it will not be able effectively to oppose any reform policy. But it remains to be known whether the Bank will actively support such a policy. This depends on the manner in which it functions.

119. POPULATION PROBLEMS

In 1936 a new census was taken in France. The article below describes the population distribution of the country, comparing the 1936 figures with those for 1931. While a slight increase in the total population is recorded, the decrease in the birth rate causes some apprehension as to the future of the French

nation With a large and growing German nation to the north, the international position of the country and, ultimately, French security may be at stake ("La Population de la France," *L'Illustration*, CXCVI, January 9, 1937, 31-32)¹

The most heavily populated departments are the Seine (4,962,967 inhabitants), the Nord (2,022,167), the Seine-et-Oise (1,412,384), the Bouches-du-Rhône (1,224,802), the Pas-de-Calais (1,179,467), the Rhône (1,028,379), the Seine-Inférieure (915,628), the Gironde (850,567), the Finistère (756,793), the Bas-Rhin (711,830) Those with the smallest populations are the territory of Belfort (99,497), the Lozère (98,480), the Hautes-Alpes (88,910), the Basses-Alpes (85,090).

In comparison with the last five-year census of 1931, the figures of 1936 are not so alarming as to justify fear for the French nationality, but they do not provide any ground for great optimism The total population of France (including Corsica, but not Algeria) was found, in 1931, to be 41,834,923, of which 2,890,923 were alien It had increased in 1936 to 41,905,968 of which 2,453,507 are alien, with 76 19 inhabitants to the square kilometer The total increase is very slight 71,045

The population of France has increased in 36 departments and decreased in 54

The 38,014 communes of France, classified according to their population figures, may be grouped as follows uninhabited (of which 10 were destroyed during the war), 11 in place of 9 in 1931, of 50 inhabitants or less, 463 in place of 389, from 51 to 100 inhabitants, 2,049 in place of 1,953; from 101 to 200 inhabitants, 6,753 in place of 6,470, from 201 to 300 inhabitants, 6,129 in place of 6,000, from 301 to 400 inhabitants, 4,415 in place of 4,525, from 401 to 500 inhabitants, 3,113 in place of 3,129, from 501 to 1,000 inhabitants, 8,553 in place of 8,615; from 1,001 to 1,500 inhabitants, 2,778 in place of 2,854, from 1,501 to 2,000 inhabitants, 1,223 in place of 1,200, from 2,001 to 2,500 inhabitants, 650 in place of 660, from 2,501 to 3,000 inhabitants, 454 in place of 465, from 3,001 to 3,500 inhabitants, 299 in place of 205, from 4,001 to 5,000 inhabitants, 254 in place of 265, from 5,001 to 10,000 inhabitants, 462 in place of 444, from 10,001 to 20,000 inhabitants, 218 in place of 227, 20,000 inhabitants and over, 186 in place of 173.

¹ Translated by the editors Reprinted by permission of *L'Illustration*, Paris

These figures refute the opinion generally held as to the depopulation of the rural areas. Indeed, the number of communes under 300 inhabitants has increased. The position of the average-sized communes has remained about the same. The decrease has been in the small cities with from 10,000 to 20,000 people. The large cities remain the principal poles of attraction.

The cities which have had the largest increases are Marseille (+107,351), Nice (+32,387), Toulouse (+18,656), Toulon (+17,047), Ajaccio (+13,229), Strasbourg (+11,654). The population of Paris has decreased by 61,274.

Until now the lower birth rate has been offset in a certain measure by a decrease in the death rate of adults.

The French population problem appears more evident if one makes comparisons with foreign countries. The population of France which increased by one million from 1860 to 1870, was only three million greater in 1935. During that time (1870-1935) the population of Great Britain increased from 26 to 46 millions, that of Italy from 25 to 43, that of Germany in spite of loss of territory from 39 to 67, that of Brazil from 10 to 47, and that of Japan from 33 to 68. . . . A method of preventing race suicide is the protection of children to as great an extent as possible in order to reduce infant mortality. That mortality is 69 per cent. . . . Since 1932 the annual birth rate has decreased. . . . If France persists in this way, depopulation is inevitable. The 42 million French of today will be only 30 million in 1980.

PART III

GERMANY

CHAPTER XIX

THE GERMAN REPUBLIC

1920-1932

120. THE ESTABLISHMENT OF THE REPUBLIC

THE German revolution first appeared in the form of a naval mutiny at Kiel, November 5, 1918. Revolutionary activity spread rapidly into Bavaria and to Berlin. The Imperial Government, in the hope of bolstering up its waning authority, invited representatives of the Social Democratic party to membership in the government. It promised electoral reform and other important constitutional changes. But these concessions came too late. The widespread fear that the war was lost, lack of confidence in the good faith of the government, and the effect of allied propaganda sealed the doom of the old regime in Germany. The Kaiser left Germany November 9. Prince Maximilian, the last of the imperial chancellors, resigned on the same date and handed over his authority to Friedrich Ebert, a leader of the Social Democratic party. Associating himself with other leaders of the party, Ebert issued the following proclamation announcing the political changes which had taken place and calling for a constitutional convention. ("The German Revolution," *International Conciliation*, No. 137, April, 1919, p. 543) ¹

¹ Reprinted by permission of *International Conciliation*, New York

DECREE ISSUED BY THE NEW REVOLUTIONARY GOVERNMENT ON
THE EVENING OF NOVEMBER 9

COMRADES!

This day has completed the freeing of the people. The Emperor has abdicated, his eldest son has renounced the throne. The Social Democratic party has taken over the government, and has offered entry into the government to the Independent Social Democratic party on the basis of complete equality. The new government will arrange for an election of a Constituent National Assembly, in which all citizens of either sex who are over twenty years of age will take part with absolutely equal rights. After that it will resign its powers into the hands of the new representatives of the people.

Until then its duties are

To conclude an armistice and to conduct peace negotiations, to assure the feeding of the population.

To secure for the men in the army the quickest possible orderly return to their families and to wage-earning work.

For this the democratic administration must begin at once to work smoothly. Only by means of faultless working can the worst disasters be avoided. Let each man, therefore, realize his responsibility to the whole. Human life is sacred. Property is to be protected against illegal interference. Whoever dishonors this glorious movement by vulgar crimes is an enemy of the people and must be treated as such. But whoever co-operates with honest self-sacrifice in our work, on which the whole future depends, may say of himself that at the greatest moment of the world's history he joined in to save the people.

We face enormous tasks. Laboring men and women, in town and country, men in the soldier's uniform and men in the workman's blouse, help, all of you!

EBERT, SCHEIDEMANN, LANDSBERG

121 THE WEIMAR CONSTITUTION

In accordance with the revolutionary decree of November 9, 1918, the provisional government arranged for the election of a Constituent National Assembly. The election was held January 19, 1919, after widespread discussion had awakened

intense national interest. The 421 members selected included 165 Social Democrats, 90 members of the Christian Peoples party, 75 Democrats, 42 representatives of the National Peoples party, 22 each for the Independent Socialists and the Peoples party, and 5 from the Bavarian Peasants' party. The Social Democrats and the Christian Peoples party dominated the Assembly, which remained in session approximately six months before its work was completed. The Constitution was put into effect on August 11, 1919, by executive order and without popular ratification. It controlled the political life of Germany until 1933. Since that date it has had little or no practical significance although it has never been repealed by the Nazi government.

The selections below from the Constitution bring out some of its salient features. From the division of powers between the Reich and the States (Articles 1-11) the centralizing tendencies of the instrument may be seen. The articles relating to the Reichstag show the democratic tendencies of the regime. Section III on the presidency and the ministry describe the German adaptation of cabinet government. The remaining articles on "Economic Life" indicate some socialist leanings of the Weimar Convention. (*British and Foreign State Papers*, 1919, CXII, 1063-92.)

Part I

CONSTRUCTION AND DUTIES OF THE FEDERATION

Section I

FEDERATION AND STATES

Article 1. The German Federation is a republic.

The supreme power proceeds from the people.

Art. 2. The Federal territory consists of the territories of the German States. Other territories may, by Federal law, be admitted within the Federation, if desired by their population, in virtue of the right of self-determination.

Art. 3. The Federal colours are black, red and gold. The com-

mercial flag is black, white and red, with the Federal colours in the upper inside corner

Art 4 The universally recognised rules of International Law are valid as binding constituent parts of German Federal law

Art 5 The executive power is exercised in Federal affairs through the institutions of the Federation, in virtue of the Federal Constitution, and in State affairs by the officials of the States, in virtue of the Constitutions of the States

Art 6 The Federal Government has sole legislative power as regards

- (1) Foreign relations;
- (2) Colonial affairs,
- (3) Nationality, right of domicile, immigration, emigration and extradition,
- (4) Military organisation,
- (5) The monetary system,
- (6) The customs department, as well as uniformity in the sphere of customs and trade, and freedom of commercial intercourse,
- (7) The postal and telegraph services, including the telephone service

Art 7. The Federal Government has legislative power as regards

- (1) Civic rights,
- (2) Penal power,
- (3) Judicial procedure, including the carrying out of sentences, as well as official co-operation between authorities,
- (4) The passport office and the police supervision of foreigners,
- (5) The poor law system and the provision for travellers,
- (6) The press, trades unions and the right of assembly,
- (7) The population question, and the care of motherhood, infants, children, and young persons,
- (8) The health and veterinary departments, and the protection of plants against disease and damage from pests;
- (9) Labour laws, the insurance and protection of the workers and employees, together with labour bureaus,
- (10) The organisation of competent representation for the Federal territory,
- (11) The care of all who took part in the war, and of their dependants,
- (12) The law of expropriation;

-
- (13) The formation of associations for dealing with natural resources and economic undertakings, as well as the production, preparation, distribution and determination of prices of economic commodities for common use,
 - (14) Commerce, the system of weights and measures, the issue of paper money, banking affairs and the system of exchange,
 - (15) Traffic in foodstuffs and luxuries, as well as in articles of daily necessity,
 - (16) Industry and mining,
 - (17) Insurance matters,
 - (18) Navigation, deep sea and coastal fishery,
 - (19) Railways, inland waterways, motor traffic by land, water and air, as well as the construction of high roads, so far as this is concerned with general traffic and home defence,
 - (20) Theatres and cinemas.

Art 8 Further, the Federal Government has legislative power as regards taxes and other sources of revenue, in so far as they are claimed wholly or in part for Federal purposes. Where the Federal Government demands taxes or other sources of revenue hitherto appertaining to the various States, it must take into consideration the maintenance of the vitality of those States.

Art 9 Where there is need for the issue of uniform regulations, the Federal Government has legislative power as regards

- (1) Sanitary administration,
- (2) The maintenance of public order and safety

Art 10 In the course of legislation, the Federal Government may draw up regulations for

- (1) The rights and duties of religious societies,
- (2) Public instruction, including universities, and the department of scientific literature,
- (3) The rights of the officials of all public corporations,
- (4) The land laws, the distribution of land, questions regarding colonisation settlements, the tenure of landed property, the housing question and the distribution of the population,
- (5) Questions regarding burial

Art 11 In the course of legislation, the Federal Government may draw up regulations as to the admissibility and mode of col-

lection of State taxes, in so far as they are requisite for the purpose of preventing —

- (1) Loss of revenue or action prejudicial to the commercial relations of the Federation,
- (2) Double taxation,
- (3) Charges for the use of public lines of communication and their accessories, which are excessive, and constitute a hindrance to traffic,
- (4) Assessments which are prejudicial to imported goods, as opposed to home products, in dealings between the separate States and parts of a State, or
- (5) Bounties on exportation, or for the protection of important social interests.

Section II

THE REICHSTAG

Art 20. The Reichstag is an Assembly composed of the deputies of the German people

Art 21 The deputies are representatives of the whole people They are subject to their conscience only, and not bound by any mandates

Art 22 The deputies are elected by the universal, equal, direct and secret suffrage of all men and women above the age of 20, upon the principles of proportional representation Elections must take place on a Sunday or a public holiday

Details are determined by the Federal election law

Art 23 The Reichstag is elected for four years The general election must take place not later than sixty days after dissolution. The Reichstag must assemble not less than thirty days after the election

Art 24 The Reichstag assembles annually on the first Wednesday in November at the seat of the Federal Government The President of the Reichstag must summon it earlier, if requested by the President of the Federation or by at least one-third of the members The Reichstag determines the conclusion of the session and the day of re-assembly

Art 25 The President of the Federation may dissolve the Reichstag, but only once for any one reason The general election will take place not later than sixty days after the dissolution.

Art 26 The Reichstag elects the President, his Deputy and Secretary, and draws up its Standing Orders

Art 27 Between two sessions or elective periods the President and Deputy of the last session remain in office .

Art 33 The Reichstag and its Committees may require the presence of the Federal Chancellor and of any Federal Minister

The Federal Chancellor, the Federal Minister and Commissioners appointed by them, have access to the sittings of the Reichstag and its Committees The States are entitled to send plenipotentiaries to these sittings, for the purpose of stating the point of view of their Government with regard to the subject under discussion

At their request, the Government representatives must be heard during the debate, also the representatives of the Federal Government, without regard to the Order of the Day

They are subject to the authority of the President

Section III

THE PRESIDENT OF THE FEDERATION AND THE FEDERAL GOVERNMENT

Art 41 The President of the Federation is elected by the whole German people

Every German who has completed his 35th year is eligible

Details are determined by a Federal law

Art 42 The President of the Federation, when entering upon his office in the Reichstag, takes the following oath —

“I swear to dedicate my powers to the welfare of the German people, to enlarge their sphere of usefulness, to guard them from injury, to observe the Constitution and the laws of the Federation, to fulfil my duties conscientiously, and to do justice to every man ”

The addition of a religious asseveration is permissible

Art 43 The President of the Federation remains in office for seven years Re-election is permissible

Before the expiration of the set term, the President of the Federation may, upon the motion of the Reichstag, be removed from office by the vote of the people The decision of the Reichstag requires a two thirds majority By such a decision, the President of the Federation is prevented from the further exercise of his office

The refusal to remove him from office, expressed by the vote of the people, is equivalent to re-election, and involves the dissolution of the Reichstag

Penal proceedings may not be taken against the President of the Federation without the consent of the Reichstag

Art 44 The President of the Federation cannot at the same time be a member of the Reichstag

Art 45 The President of the Federation represents the Federation in international relations. He concludes alliances and other treaties with foreign Powers in the name of the Federation. He accredits and receives Ambassadors

The declaration of war and the conclusion of peace are dependent upon the passing of a Federal law

Alliances and treaties with foreign States, which refer to subjects of Federal legislation, require the consent of the Reichstag

Art 46 The President of the Federation appoints and dismisses Federal officials and officers, where no other system is determined by law. He may depute these powers to other authorities

Art 47 The President of the Federation has supreme command over all the armed forces of the Federation

Art 48 In the case of a State not fulfilling the duties imposed on it by the Federal Constitution or the Federal laws, the President of the Federation may enforce their fulfilment with the help of armed forces

Where public security and order are seriously disturbed or endangered within the Federation, the President of the Federation may take the measures necessary for their restoration, intervening in case of need with the help of armed forces. For this purpose he is permitted, for the time being, to abrogate, either wholly or partially, the fundamental laws laid down in Articles 114, 115, 117, 118, 123, 124 and 153.

The President of the Federation must, without delay, inform the Reichstag of any measures taken in accordance with paragraphs 1 or 2 of this Article. Such measures shall be withdrawn upon the demand of the Reichstag

Where there is danger in delay, the State Government may take provisional measures of the kind described in paragraph 2, for its own territory. Such measures shall be withdrawn upon the demand of the President of the Federation or the Reichstag.

Details are determined by a Federal law.

Art 49 The President of the Federation exercises the prerogative of mercy for the Federation

Amnesties require a Federal law.

Art 50 All orders and decrees of the President of the Federation, including those relating to the armed forces, require for their validity the countersignature of the Federal Chancellor or the competent Federal Minister. The countersignature implies the undertaking of responsibility

Art 53 The President of the Federation appoints and dismisses the Chancellor of the Federation, and, on the latter's recommendation, the Federal Ministers

Art 54 The Chancellor of the Federation and the Federal Ministers require, for the administration of their office, the confidence of the Reichstag. Any one of them must resign, should the confidence of the House be withdrawn by an express resolution

Art 55 The Chancellor of the Federation presides over the Federal Government and directs its business, according to a standing order drawn up by the Federal Government and approved by the President of the Federation

Art 56 The Chancellor of the Federation determines the main lines of policy, for which he is responsible to the Reichstag. Within these main lines each Federal Minister directs independently the department entrusted to him, for which he is personally responsible to the Reichstag

Art. 57 The Federal Ministers must submit to the Federal Government for advice and decision the drafts of all Bills, also all matters for which such a course is prescribed by the Constitution, or by law, as well as differences of opinion upon questions affecting the sphere of action of several Federal Ministers

Art 58 The Federal Government comes to a decision by the majority of votes. In case of an even vote the Speaker gives the casting vote

Art 59 The Reichstag is entitled to arraign the President of the Federation, the Federal Chancellor and the Federal Ministers, before the Supreme Court of Judicature for the German Federation for culpable violation of the Federal Constitution, or of a Federal law. The motion for the arraignment must be signed by at least one hundred members of the Reichstag, and requires the consent of the majority prescribed for alterations of the Constitution.

Details are regulated by the Federal law as to the Supreme Court of Judicature . . .

Part II

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Section V

ECONOMIC LIFE

Art 151 The organisation of economic life must correspond to the principles of justice, with the aim of ensuring for all conditions worthy of a human being Within these limits the economic freedom of the individual must be guaranteed

Legal compulsion is permissible only for the realisation of threatened rights, or in support of the superior demands of public welfare

Freedom of trade and industry is guaranteed in accordance with the provisions of Federal law.

Art 152 In economic intercourse there is freedom of contract in accordance with the provision of the laws

Usury is forbidden Legal transactions which are opposed to morality are void.

Art 153 Property is guaranteed by the Constitution Its extent and limits are defined by the laws

Expropriation may be effected only for the benefit of the whole community and upon the basis of law It is accompanied by due compensation, unless otherwise determined by Federal law. In case of dispute with regard to the amount of compensation, the course of law in the regular Courts of Justice shall be available, unless otherwise determined by Federal laws Expropriation by the Federation in respect of States, communities and associations of public utility must be accompanied by compensation

Property implies duties, and the use to which it is put should be of service to the welfare of all.

Art 154 The right of inheritance is guaranteed in accordance with the provisions of civil law

The share of the inheritance due to the State is determined according to the laws

Art 156 The Federation may, by means of law, without prejudice to compensation and with appropriate application of decisions

in force for expropriation, convert into public property private economic concerns and unions which are suitable for socialization. It may itself assign to the States or communities a share in the administration of economic concerns or unions, or otherwise assure to itself decisive influence.

Further, the Federation may, by law, in case of pressing necessity and for objects of public economic interest, combine economic concerns and unions on the basis of self-government, with the aim of ensuring the co-operation of all sections of productive workers, and of interesting employers and employees in the administration. A further aim would be the regulation, upon the principles of public economy, of production, collection, distribution, employment and valuation, together with import and export of all economic articles.

Industrial and co-operative societies, and their unions, shall upon their request and with due regard to their constitution and special characteristics, be incorporated into the public economic system.

/ Art 165 Workmen and employees are called upon, with equal rights in common with the employers, to co-operate in the regulation of wage and labour conditions, as well as in the whole economic development of production. The organisations on both sides, and their agreements, are recognised.

For the protection of their social and economic interests, workmen and employees are legally represented in the Trades Workmen's Councils, as well as in the District Workmen's Councils formed in connection with economic districts, and in a Federal Workmen's Council.

The District Workmen's Councils and the Federal Workmen's Council meet, for the accomplishment of all economic tasks and for co-operation in the execution of social laws, with the representatives of the employers and other sections of the nation concerned to form District Economic Councils and a Federal Economic Council. These Economic Councils shall be so constituted as to represent all important groups of occupations, in proportion to their economic and social importance.

Drafts of laws of fundamental importance, involving social and economic policy, shall be submitted by the Federal Government to the Federal Economic Council for approval before they are actually brought forward. The latter has the right of proposing such

Bills itself Should the Federal Government not approve of them, it must nevertheless introduce them into the Reichstag, with a statement of its own views The Federal Economic Council may present its proposals to the Reichstag by one of its members

Powers of control and administration in questions assigned to them may be transferred to Workmen's and Economic Councils

It is exclusively the business of the Federal Government to regulate the constitution and spheres of action of Workmen's and Economic Councils, as well as their relation to other self-governing bodies

CHAPTER XX

NATIONAL SOCIALISM

122 THE TWENTY-FIVE POINTS

THE first statement of the principles of the National Socialist party was called the "Twenty-five Points." The document contained as much of denunciation as it did of positive declaration. It was adopted by the leaders of the party February 25, 1920, and was declared unalterable by a party congress of 1926, a declaration reaffirmed by subsequent party congresses. It is interesting to read this early program of the party in the light of later accomplishments. While there can be no doubt that the Twenty-five Points have been modified in practice, yet they constitute a remarkably accurate forecast of the developments of the past decade in Germany¹ (*Das Programm der N. S. D. A. P.* von Dipl. Ing. Gottfried Feder, 1933, pp. 19-22.)

PROGRAM OF THE NATIONAL SOCIALIST GERMAN WORKINGMAN'S PARTY

The program of the German Workingman's party is a lasting program. The leaders decline, after realizing the aims presented in

¹ The party name has been translated variously in English as the National Socialist German Workingman's (or Workingmen's) party and as the National Socialist German Worker's (or Workers') party.

this program, to propose new goals merely for the purpose of enabling the party to continue in existence through artificially increased dissatisfaction of the masses

1 We demand the union of all Germans to form a Great Germany, based upon the self-determination of peoples

2 We demand equal rights for the German people with other nations, the abrogation of the peace treaties of Versailles and St. Germain

3 We demand colonies to feed our people and for colonization by our surplus population

4 Only comrades (Volksgenossen) can be citizens Only persons of German blood can be comrades, without regard to religion Consequently no Jew can be a comrade

5 Persons who are not citizens shall be permitted to live as guests in Germany and they are subject to legislation affecting aliens

6. The right to take part in lawmaking and administration cannot be shared by aliens Consequently, we demand that only citizens be invested with public office, whatever its nature whether in the Reich, district or community

We fight against the corrupt parliamentary method of making appointments to offices according to party views without any regard for character or ability

7 We demand that the state take as its first duty the provision of work and life for its citizens If it is not possible to sustain the total population of the state, non-citizens must be expelled from the Reich

8. Further immigration of non-Germans is to be prevented We demand that all non-Germans who have immigrated into Germany since August 2, 1914, be forced to leave the Reich at once

9 All citizens must have equal rights and duties

10 The first duty of every citizen must be to labor, either with the mind or with the body The activity of the individual must not conflict with the interests of the common weal, but must harmonize with the common weal and serve the interests of all

Consequently We Demand

11 Abolition of income without work

BREAKING UP THE RENT SERVITUDE

12 Considering the immense sacrifices in property and life which every war demands of the people, personal enrichment through war must be declared criminal We demand, therefore, continuous collection of all war profits

13 We demand that the state take over all trust business

14 We demand profit-sharing in large business enterprises

15 We demand an improvement on a large scale of provisions for care of the aged.

16 We demand the creation and maintenance of a sound middle class, immediate communalization of large department stores and their rental to small traders at low prices, and careful consideration for small traders in purchases made by the state, districts, and political communities

17 We demand land reform adapted to our national needs and the enactment of a law under which land can be gratuitously appropriated by the state for the furtherance of the common good We demand abolition of land rent and the prevention of all land speculation

18 We demand a ruthless fight against persons whose activities are incompatible with the common weal. Dangerous conspirators against public welfare, usurers, those guilty of dishonest manipulation, etc., are to be punished by death without regard to religion or race

19 We demand replacement of the Roman law which serves the materialistic world order by German common law

20 In order to make it possible for every capable and industrious German to obtain a higher culture and, with it, a worthy position, the State must provide for the thorough education of its entire population The study plans of all institutions must be adapted to the needs of practical life From the beginning the conception of the state idea must be instilled at school We demand the education at state expense of unusually gifted children of poor parents, without regard to their class or vocation

21 The state must provide for the improvement of public health by the protection of mothers and their children, by forbidding child labor, by encouraging physical exercise in athletics and sports, and by the utmost support of associations engaged in the physical training of our youth

22 We demand the abolition of soldiery and the formation of a people's army

23 We demand legal measures against conscious political falsification and its dissemination by the press. In order to make possible the creation of a German press, we demand

- a That all editors and workers on newspapers which appear in the German language shall be comrades (Volksgenossen)
- b That non-German newspapers be published only with state approval. They must not be printed in the German language.
- c That every financial partnership of non-Germans in German newspapers, and the control by non-Germans of German newspapers be forbidden by law and we demand the punishment of violators by the closing of guilty concerns, and the immediate expulsion from the Reich of participating non-Germans

Newspapers which offend the common weal are to be forbidden. We demand legal measures against any artistic or literary tendencies which exercise a disintegrating influence upon our people's life, and the closing of guilty societies.

24 We demand the freedom of all religious confessions in the Reich or in the State so long as the life of the state is not threatened or offenses against the decency and morality of the German race are not committed

The party as such advocates positive Christianity without committing itself to a definite creed. It opposes the Jewish materialistic spirit within us and without us, and is convinced that a lasting recovery of our people can only result from within upon the basic principle.

Common Weal before Individual Welfare

25 In order to carry out all this, we demand the creation of a strong central power in the Reich. We demand unconditional authority of the central political Parliament over the whole Reich and its organizations

We demand the formation of class and vocation chambers to carry out the laws (Rahmengesetze) made in the separate parts of the federation

The leaders of the party promise to guarantee the execution of the preceding points, if necessary with the sacrifice of their lives

Munich, February 24, 1920

123 NATIONAL SOCIALIST DOCTRINES

The statements below are taken from speeches made by Hitler since the National Socialists came into power. They furnish an authoritative statement and exposition of some of the basic principles of National Socialism (Adolf Hitler, *Speeches*, 1933-38, pp. 32-65.)

PRIVATE PROPERTY *

We National Socialists see in private property a higher grade of human economic development which regulates the administration of rewards in proportion to the differences in achievement, but which also makes possible and guarantees to all the advantages of a higher standard of living.

Bolshevism destroys not only private property but also private initiative and zest for personal responsibility. In this way it has failed to save millions of men from starvation in Russia, the greatest agrarian state in the world.

THE POSITION OF THE STATES †

The National Socialist revolution would have remained incomplete if it had not placed the interests of the nation as a whole above those of the former states and especially above their so-called sovereign rights. It was not only the political parties which had to disappear. The abolition of the state diets had long been overdue. There can be only one sovereign power in the German Reich. It proceeds from the entire German people and not from a part of the people. In abolishing these states as sovereign powers and doing away with their diets as the representatives of their sovereignty, we created the conditions necessary for a true sovereign power of the entire German people.

ON DEMOCRACY ‡

From Anglo-Saxon countries I often hear expressions of regret that Germany should have departed from just those principles of

* May 21, 1935

† February 20, 1938

‡ May 21, 1935 Speech before Nazi Party Congress, Nürnberg, 1936

democratic government which such countries consider as specially sacred This opinion is based upon a serious error Germany too has a "democratic" constitution The present German Government of the National Socialist State has also been elected by the people and feels itself in the same way responsible to the people.

The German people has elected one man as its representative by an overwhelming majority This is perhaps one of the most important differences between Germany and the conditions existing in other countries It means that I feel myself just as responsible to the German people as would any parliament I act on the trust they have placed in me and I carry out their mandate .

Democracy is the intellectual cause of anarchy and, indeed, the intellectual basis of anarchy in every shape No state owes its development to democracy as practiced today, though all great empires have to thank this form of democracy for their destruction Indeed the final excesses of this type of democracy must lead to anarchism, just as authority, or better, the principle of authority, must in the last resort once more lead to the State, that is, to a higher order of the community

ON AUTHORITY *

Every successful attempt to put into practice the claim to unlimited individual freedom leads to anarchy The grouping of individuals, however, by means of the limitation of the freedom of the individual in favor of the organization of a bigger community leads to the state. Thus the *sine qua non* for, and basis of, the State is, and always will be, the authority embodied in the will to the maintenance of the State.

ON ECONOMIC NATIONALISM AND PLANNING †

We are all convinced that the complete carrying out of the idea of economic self-sufficiency for all states, which is threatening us today, is, when regarded from a higher standpoint, foolish and can only result in harm for all nations Economically regarded, it is not very reasonable to endeavor artificially to turn natural agricultural and raw-material districts into industrial districts, or on the other hand to endeavor to compel the overpopulated industrial

* Speech at Nazi Party Congress, 1936

† May 21, 1935

countries to produce raw materials or even substitutes by primitive means

For Europe this development will one day have very unpleasant and evil consequences. But to alter it is unfortunately not within Germany's power. Looked at from the broad economic angle, it is against the dictates of reason. What happens is that, in so far as we are deprived of foreign markets for our exports, we are forced to restrict our imports. To that extent, so that German productive labor may not stagnate, we must either employ a complicated process for the production of the raw materials that we lack internally or else we must use substitutes. This task can be undertaken only by means of a planned economic system.

THE UNITY OF THE NATION *

In succeeding in giving our people a new idea and, by means of this new idea, in leading them to a new form of life, we have accomplished the greatest thing that has been achieved for our people in this century. There may perhaps be a few people who ask themselves—perhaps even on this very day—why should we go out on such a day, in such appalling weather? Why should we march? Why should we gather here in millions? But the answer is obvious: to give a symbolical expression to the fact that we are not townspeople or country people, not manual laborers, white-collar workers, artisans, peasants, students, bourgeois, or followers of any particular ideology, but that we are all members of one nation, that, when we are united, we are that which must unite us all in the common duty to do our work in this world with all the strength which Almighty God has given us—each in his place, each where he stands and where he must stand. We know too that there are many who could not be replaced, but more than that, there is no one whom we can do without, whether he comes from the factory, the counting house, the drawing office, business, or the fields: one people in one single great community, engaged in the fulfillment of one single great task. Thus are we come together on this day in order on one occasion at least to give symbolical expression to the fact that we are more than a collection of individual beings possessed by not the slightest wish to have anything to do with each other, that none of us is too proud, too high, too rich, or too poor to gather together before the face of the Lord.

* May 1, 1935

and of the world in this indissoluble community bound by the most solemn oath

124 ADOLF HITLER

Until he became identified with National Socialism, Adolf Hitler was an obscure person. Born into a humble Austrian family, he lived the life of the people of his class without displaying any particular propensities or abilities except, in a small way, for painting. During the World War, he served in the German army as corporal, in which capacity he was decorated with an Iron Cross. In 1919 he became a member of the National Socialist party, the seventh to join. With tireless energy he labored to elevate the position of the party from that of a despised minority into one of domination. He was imprisoned for his activities, and during his confinement wrote *Mein Kampf*. The extract below is an analysis of Hitler's character (Stephen H. Roberts, "The Riddle of Hitler," *Harper's Magazine*, February, 1938, CLXVI, 246-54.)¹

Hitler undoubtedly has a very complex personality. People like Stalin and Mussolini are much simpler—easier to analyze and understand, but there is something elusive about Hitler, and one feels that the simplest solutions fall short of the whole truth. The two most popular views picture him either as a mere ranting stump-orator or as a victim of demoniacal possession, driven hither and thither by some occult force that makes him a power of evil. But these are as unsatisfactory as the view of his believers that he is a demigod, revealing the path Germany is to follow by some divine power of intuitively knowing what to do.

I think that he is primarily a dreamer, a visionary. His mind, nurtured by the other-worldliness of the Alpine scenery round his mountain retreat of Berchtesgaden, runs to visions, and I have heard his intimates say that even in cabinet meetings when vital questions of policy are being discussed he is dreaming—thinking of the light that never was on sea or land, the consecration and the poet's dream. . . .

¹ Reprinted by permission of Harper & Brothers, publishers of *The House That Hitler Built*

Of course it is his dreaminess that hard-bitten advisers like Goebbels and Goring have capitalized. He is so transparently honest when he is weaving visions of his own creation that nobody can doubt him. He is ready, like a medieval saint, to go through fire and water for his beliefs. I am not certain that he would not actually like being tortured—he would love playing the martyr, if only for his own mental delectation. He sees himself as a crusader, he thinks the whole time of saving mankind. That is why he reaches such a state of mystical exaltation when he talks about saving the world from Bolshevism.

That accounts for his popular appeal, and it also makes him dangerous. I heard him make the famous speech when he spoke of absorbing the Ukraine and Siberia. Under the cold analysis of foreign newspaper reporters, this speech read like a declaration of Germany's Eastern Imperialism. Actually it was nothing of the kind. Hitler merely forgot his audience and wandered off into a dream-world of his own. He spoke of the wonders he would do if he controlled the fields of the Ukraine and the hidden treasures of Siberia, just as one of us might meander on about the riches of Cathay.

The same remarks apply to his other speech in that same week, when he held out his arms, rolled his eyes to heaven, and said that [the Germans] must thank God for giving them Hitler. In retrospective analysis this seems either silly or blasphemous, but it did not appear so to his listeners. It did not seem incongruous even to foreigners like ourselves—at least, not in that place and time. Imagine an English premier speaking in the same way! Nothing shows more clearly the enormous gulf between Hitlerian psychology and our own.

Nobody would claim that Hitler is of outstanding mental stature. If he really expresses the Romantic Ideal carried to the point of absurdity, and if romanticism is the liberation of the less conscious levels of the mind (as one recent writer has described it), extreme mental clarity would not be expected from him. His life, as I see it, can be expressed as an attempt at escaping from reality and a more or less constant intoxication of his imagination by a free indulgence in fantasy. He has none of that "great measuring virtue" without which Ruskin asserts true greatness is impossible. . .

But he is transparently honest. He believes what he is saying, and

throws every ounce of nervous energy into all that he says or does, even when he is answering the most casual question (this stands out as my keenest impression when I spoke to him in the Deutscher Hof) Nobody can doubt his utter sincerity He cannot help himself, he cannot restrain himself He is completely absorbed in the statement or policy of the moment That explains why he carries the crowds with him—because he believes so utterly, so appallingly, in what he is saying

Nevertheless, he can say different things in successive moments and believe in each with the same degree of fervor It is not his honesty that is in question, it is his terrific power of self-delusion that introduces such an element of uncertainty into everything he does His advisers never know what he is going to say next It is said that he could start talking about any subject under the sun and, before he got very far, he would be expounding it with all the zeal of a prophet of a new religion. "Start Adolf on two sentences about religion, and he will make a heathen gathering like a revivalist meeting," one of his lieutenants said years ago, and this is quite true . . .

Hitler, either by design or because of his lack of creativeness, hit upon an elementary electioneering truth and has adhered to it ever since He knows that an uneducated political public wants endless repetition of a few trite phrases, and he has kept on parroting certain fixed phrases for over fifteen years A brainier man would have weaned of this role of human gramophone, but, even today, every speech of Hitler's is mainly composed of the same old generalizations, the same old denunciations, the same old form of patriotism . . .

His collected speeches do not make good reading, and it becomes clear from perusing them that their appeal comes entirely from the way in which they are delivered and the circumstances under which they are given His first broadcast speech to the nation after becoming Chancellor, for instance, was nothing more than a prolonged ranting against "Jewish Marxism", so too with his last great speech surveying his four years of power

The man himself leads a simple life, preferring his chalet at Berchtesgaden to the pleasures of Berlin palaces As often as possible he shuts himself up as in a monastery Probably Hess and Bruckner and the talkative, irrepressible Hanfstaengl know most about his private life, Goebbels and Frau Goebbels also are fre-

quent visitors, and he feels in his element when Goring goes up to Berchtesgaden and dresses in the leather pants and figured braces of the countryside, and they reduce some complicated world problem to a simple discussion, ignoring all its complexities and dealing with it as if they were two peasants talking about the next meeting of the village band. It is the haphazardly a priori methods with which great problems are handled in the New Germany that leave one so appalled .

Apparently he never reads very much beyond official papers. Even in his agitating days he would never open a book. His personal room at the Brown House had no books, and none of the pictures taken at his chalet show any. It is doubtful if he has ever made a serious study of historical or philosophical works . . .

But the final enigma remains. Granting that Hitler is a dreamer, a creature of emotion, a man of ordinary mental caliber, a gripping orator, a simple-living *Fuhrer* with an almost divine sense of his mission—how did such a man rise to power and consolidate the nation in his first four years of rule? Many reasons seem to offer partial explanations of this. He was the greatest popular orator during a time of political chaos and national depression; his general philosophy about *Deutschland erwache!* fitted in with the psychology of the nation, so that his movement became a national narcotic, he had marvellous subordinates and, with them, built up the best Party organization, his simple mentality enabled him to carry through a complex revolution before which a mind more clearly analytical of the consequences would have quailed, and finally he became the Mythos of the German people . . .

CHAPTER XXI

THE GOVERNMENT OF THE THIRD REICH

125 THE CONSTITUTIONAL BASIS FOR DICTATORSHIP

ALTHOUGH the Weimar Constitution has not as yet been formally repealed, it has lost all practical importance as a restraint upon or guide to the government in power. Indeed, the principles of the Constitution are not consistent with the actual functioning of dictatorship and National Socialism.

The constitutional transition from the Weimar Republic to the National Socialist state was given form by the Enabling Act, passed on March 24, 1933, with a Reichstag majority of 441 to 93. While enacted constitutionally, it was a virtual abolition of the Weimar system, for in it the Reichstag gave the dictatorship its legal foundation.

On the basis of the Enabling Act, the government has issued many decrees, some of which have constitutional significance in rearranging the lines of control within the state. The selections below provide (A) the text of the Enabling Act (March 24, 1933) and (B) the terms for the renewal of the act (January 30, 1937). Several decrees issued under the act will be found in this chapter.

A. THE ENABLING ACT, MARCH 24, 1933¹

Article 1 Federal laws may be enacted by the Government (the Cabinet) outside of the procedure provided in the Constitution, including Article 85, Paragraph 2—providing that the budget must be adopted by legislative act—and Article 87 of the Constitution—providing for legislative action to authorize the Government to make loans and credits

Article 2 The laws decreed by the Government may deviate from the Constitution so far as they do not deal with the institutions of the Reichstag and the Federal Council as such The prerogatives of the President remain untouched

Article 3 The laws decreed by the Government are to be drafted by the Chancellor and announced in the *Reichsgesetzblatt* (the organ in which laws are published) If not otherwise ordered they shall become effective the day following the announcement Articles 68 to 77 of the Constitution—regulating the procedure of the announcement and publication of laws—do not apply to laws decreed by the Government

Article 4 For treaties of the Reich with foreign nations regarding matters of the Reich's legislative authority, the consent of the legislative bodies is not needed so long as this act is in force. The Government shall issue decrees necessary for the enforcing of these treaties

Article 5 This law shall become effective on the day it is announced It shall remain in effect until April 1, 1937 It shall expire when the present Government is replaced by another

B TERMS OF THE EXTENSION OF THE ACT,
JANUARY 30, 1937

The validity duration of the *Law Against the Distress of the People and Nation* of March 24, 1933 (*Reichsgesetzblatt I*, 1933, Seite 141), will be extended until April 1, 1941

126 THE LEADER AND CHANCELLOR

From April 26, 1925, until his death on August 2, 1934, von Hindenburg was the president of Germany During the last

¹ The New York Times, March 24, 1933.

year and a half of his tenure, Hitler was chancellor and virtual dictator. No effort was made by the National Socialists to change or abolish the presidential office so long as von Hindenburg was alive. The popularity of the old Field Marshal made it extremely inexpedient to tamper with his influential position in the Reich. On the day that von Hindenburg died, Hitler issued a decree-law merging, for the time being, the presidency with the chancellorship. In a letter to the Minister of the Interior, Dr. Frick, he announced his intention to hold a national plebiscite to approve the action which he had taken in uniting the two offices. He explained that his new title would be "Leader and Chancellor" (*Führer und Reichskanzler*). On August 6, Hitler further explained his action to the Reichstag, which had been called for the express purpose of listening to his speech on this subject. The plebiscite, held on August 19, brought overwhelming confirmation of the action taken. Thus, without formally amending the Weimar Constitution, the office of president was virtually abolished and a new one, *Führer und Reichskanzler*, created.

While these documents continue to be of historical interest, a later change in Hitler's title indicates a further evolution of his role in the state. On July 5, 1939, an official decree shortened his title from *Der Führer und Reichskanzler* to *Der Führer*. The explanation given for the change was that the title of chancellor gave Hitler the air of a functionary or politician whereas he was in fact the beloved leader of his people.

A DECREE-LAW OF AUGUST 2, 1934, TEMPORARILY
MERGING THE PRESIDENCY WITH HITLER'S OFFICE ¹

Clause 1. The office of Reich President is combined with that of the Reich Chancellor. In consequence the previous prerogatives of the President are transferred to the Chancellor, Adolf Hitler. He determines his deputy.

Clause 2. This law entered into force from the moment of the death of President von Hindenburg.

¹ The Manchester Guardian Weekly, August 10, 1934.

B HITLER'S EXPLANATION OF HIS ACTION TO THE
REICHSTAG ¹

You must believe me, my fellow countrymen, that on other occasions we would naturally have selected the method of referring the examination [of questions] to the people first, and then executing their decision. The result as such would not have been different in this case. While the Government of the Reich, legally empowered, proclaimed the combining of both offices, it has done what the people themselves would have enacted according to the existing circumstances.

My personal view of this problem is clearly and distinctly set forth in the letter to the Minister of the Interior.

The Field Marshal and President of the Reich has been a singularly model example and can not be replaced. His mission was achieved as President of the Reich.

No one shall carry on under this title in the future. However logical the combination of both functions is and even though the law of the Reich solves the difficulty in a constitutionally unobjectionable manner, I must decline to derive the right of this great step of re-shaping the German Reich on the basis of an earlier conferred authorization. *No! The people themselves shall give their decision concerning this matter.* Without destroying the essence of the Constitution of the German Reich, I believe that I shall succeed in adding new honor to the title of German Chancellor . . .

127 THE UNIFICATION OF PARTY AND STATE

The following law, which went into effect on December 1, 1933, converted the Nazi party into a public corporation, assigning to it governmental functions, particularly in the administration of justice. The law places the Nazi party and the Storm Troops in much the same relation to the state as that of the army or of the police. Special courts have been created under the jurisdiction of the party to administer justice in cases involving questions of discipline and neglect of duty.

¹ *Frankfurter Zeitung*, August 19, 1934

These courts are able to impose sentences of confinement. For ordinary crimes, not connected with the service, the Nazis remain subject to the regular courts (*Deutsche Rundschau in Polen*, No. 279)

The Reich government has concluded the following law, which herewith is announced

1 Since the victory of the National Socialist revolution, the National Socialist German Workingman's Party has become the embodiment of the state idea and irrevocably integrated with the state

2 In order to assure the closest co-operation by the officers of the party and of the *Sturm Abteilungen* (Storm Troopers) with public authorities, the representatives of the party leader and the chief-of-staff of the *Sturm Abteilungen* are made members of the Reichs Government

3 The members of the National Socialist German Workingmen's Party (including leaders) and of the *Sturm Abteilungen*, as the directing power of the National Socialist State, have a supreme duty toward leader, people and state

If this duty is violated they are subject to a special judicial procedure of the party and of the *Sturm Abteilungen*.

The leader may extend this provision to organizations of the party

4 Every action or failure to act, particularly offenses against discipline and order, by members of the *Sturm Abteilungen* (including the *Saal Schutz* and the *Stahlhelm*), which undermines or threatens the life of the organization, the operations and authority of the National Socialist German Workingmen's Party, is regarded as a violation of duty

5 In addition to the usual services, punishments, imprisonment and arrest may also be ordered

6 Public officials are obliged to render legal and ministerial assistance, in so far as possible, to the officers charged with the execution of justice for the party and the *Sturm Abteilungen*.

7 The law of April 28, 1933 (*Reichsgesetzblatt I 230*) providing for the punishment of service offenses by members of the *Sturm Abteilungen* and the *Saal Schutz* is no longer in effect

8. The Reich Chancellor, as leader of the National Socialist German Workingmen's party and as the leader of the *Sturm Abteilungen*, may prescribe the rules necessary to enforce and to supple-

ment this law, for the furtherance of party welfare and for *Sturm Abteilungen* justice. He sets the date for the enforcement of these rules of justice.

128 THE POSITION OF THE STATES ("LANDER")

Under the Weimar Constitution Germany, although highly centralized, was regarded by many authorities as a federal state. The local autonomy which characterized that arrangement was clearly incompatible with an effective dictatorship, with the Nazi idea of a totalitarian state, and with the *Gleichschaltung* doctrine, which seeks to achieve a highly unified country providing one manner of life for all. By successive steps the National Socialists brought the states (*Länder*) under their control. On April 7, 1933, a law for the unification of the states was enacted, creating Reich governors with extensive powers in the separate states. The Reichstag was summoned to meet on January 30, 1934, for the purpose of dealing with Hitler's project for further reform of the position of the states. Without hesitation the proposal was adopted, thereby abolishing the local diets and transferring state powers to the central government. This was followed by an order of the Reich minister of the interior carrying out with some detail the objects of the new enactment.¹

A THE UNIFICATION OF THE GERMAN STATES

1

(1) In the German states, with the exception of Prussia, the national president upon the proposal of the national chancellor, is to name the national governor. The national governor has the function of requiring the observance of the general policy laid down by the national chancellor. The following powers of state authority belong to him:

- 1 Appointment and removal of the head of the state cabinet, and upon his proposal, the other members of the state cabinet,

¹ Law for the Unification of the States with the Reich, April 7, 1933. J. K. Pollock and H. J. Heneman, *The Hitler Decrees*, 1934, pp. 18-19. This decree is reprinted through the courtesy of the editors of *The Hitler Decrees*.

- 2 Dissolution of the legislature and designation of the new election subject to the rule of section 8 of the temporary law of March 31, 1933, for the unification of the German states,
 - 3 Preparation and publication of state laws, including the laws which are determined upon by the state cabinet according to section 1 of the temporary law of March 31, 1933, for the unification of the German states Article 70 of the constitution of August 11, 1919, applies accordingly,
 - 4 Upon the proposal of the state cabinet, appointment and dismissal of the higher state officials and judges, so far as this formerly was accomplished by the highest state officials,
 - 5 The power of pardon
- (2) The national governor may preside over the meetings of the state cabinet
- (3) Article 63 of the German constitution of August 11, 1919, remains unaltered

2

- (1) A national governor may not be, at the time, a member of a state cabinet. He shall belong to the state whose sovereign powers he exercises. His official residence is at the seat of the state cabinet.
- (2) For several states, in each of which there are less than 2 million inhabitants, a common national governor, who must be a resident of one of these states, may be named. The national president will designate the governor's official residence.

3

- (1) The national governor is appointed for the duration of a state legislative period. He can be recalled at any time by the national president on the proposal of the chancellor. .

B. THE LAW FOR THE RECONSTRUCTION OF THE REICH, JANUARY 30, 1934

The popular referendum and the Reichstag election of November 12, 1933, have proved that the German nation has attained an indestructible unity superior to all internal subdivisions of a political character.

Consequently the Reichstag has unanimously passed the following law, which is herewith announced with the unanimous approval

of the Reichsrat, after ascertaining that the requirements for the amendment of the Constitution have been met

- 1 Popular representation in the *Lander* (states) will be abolished.
- 2 (1) The sovereign rights of the *Lander* are transferred to the Reich
(2) The governments of these *Lander* are placed under the Reich Government
- 3 The Reich Governors (in the *Lander*) are placed under the supervision of the Reich Minister of the Interior
- 4 The Reich government may establish new constitutional rights (for *Lander*).
- 5 The Reich Minister of the Interior may give legal and administrative orders required for the execution of the law.
- 6 This law will be in force from the day on which it is announced

Berlin, January 30, 1934

Reich President VON HINDENBURG

Reich Chancellor HITLER

Reich Minister of the Interior FRICK

129 REFERENDA ON LAWS AND POLICIES (PLEBISCITES)

While the organic changes in government which have occurred under National Socialism have strengthened dictatorship, a semblance of popular participation in government has been retained. The law of July 14, 1933, given below, permits referenda on laws and policies. The first referendum under the act occurred November 12, 1933, on the question of Hitler's armament policies and his withdrawal from the Disarmament Conference. The government's policy was strongly affirmed. On August 19, 1934, the electorate endorsed Hitler's merger of the office of president with the chancellorship, at the death of von Hindenburg. An important referendum was held April 10, 1938, concerning union of Austria and Germany. The official report of the vote in Germany showed that 44,362,667 of 44,872,702 voters favored the union (J. K. Pollock and H. J. Heneman, *The Hitler Decrees*, 1934, p. 36.)

1

(1) The national cabinet by means of a referendum may question the people as to whether or not it approves of a measure planned by the national cabinet

(2) There may also be a referendum on laws as well as on the measures referred to in paragraph one

2

A referendum is decided by a majority of the valid votes cast. This also applies to a vote on a law containing provisions which would amend the constitution

3

[This section relates to the promulgation of a referred law]

4

The minister of the interior is authorized to issue decrees and general administrative orders for the execution of this law

130 PUBLIC OPINION AND POLITICAL PARTIES

Among an intelligent people even dictatorial authority must rest upon some form of public consent. Hence one of the first objects of political attention is the control of the press, radio, and other effective means of influencing opinion. Intimidation is always possible, but less offensive measures arouse a smaller degree of opposition. A mere list of the principal decrees issued to guide and control the press is sufficient to show how completely freedom of the press has disappeared.

1 Decree for the Protection of the German People, February 4, 1933. Suppressed publications likely to "endanger public security and order."

2 Decree for the Protection of the State and People, February 28, 1933. Suspended the constitutional bill of rights, including press freedom.

3 The Journalists' Decree, October 4, 1933. Created the new discipline for the journalistic profession. The press became a public institution, journalists became semistate officials and were put under an obligation to keep out of the press anything

likely to "weaken the strength of the German Reich at home or abroad"

4 Decree of April 24, 1935 Defined the conditions under which nonparty publishers might stay in business and provided that non-Nazi papers might be suppressed

The justification for this policy, maintained by Nazi leaders, is the necessity for creating national unity This idea is more fully explained in the discussion printed below as A, by Captain Weisz, Press Chief Selections B, C, and D deal with the establishment of a ministry of propaganda, the National Culture Chamber, and with the prohibition of opposition parties

A. SPEECH BY CAPTAIN WEISZ, THE REICH PRESS CHIEF,
ON THE NAZI PRESS, MARCH 15, 1937¹

Those who still bemoan "freedom of the press" today, because the German Press is assumed to have lost its intellectual standard with it, are victims of a principal error The intellect too advances with the stronger battalions Intellect is ever present where political or cultural power is revealed

"Freedom of the press" was, amongst other things, a child of the French Revolution, but it had hardly been proclaimed as an inalienable right of man when it reached limits too extreme even for those revolutionaries of 1789 There is a well-known phrase which Saint-Just coined when speaking of the licentiousness of Citizen Camille Desmoulins "This impudent orator to whom the misfortune of the country only means material for exercising his style, this vain wit who would have sacrificed freedom for a good antithesis." This phrase might well have been coined in Germany between 1918 and 1933, for what else did Alfred Kerr, Kurt Tucholsky, Karl Ossietzky, Heinrich Mann and all the smaller wits do in their papers if not what Saint-Just described with regard to Desmoulins, for a pun or a play on words they were ready any day to betray the German nation and its national freedom

Nobody regretted the loss of a press freedom under the protection of which the freedom of the nation was deliberately undermined—to say nothing of the fact that the liberty of the press also

¹ *News in Brief*, March 23, 1937, published by the Deutscher Akademischer Austauschdienst E V Berlin

in the liberal state represented only a phantom, for, at bottom, the only freedom the journalist had was his privilege to pick out for himself that publisher or manager or board to whose tune he had to dance. Up to our revolution the German press was dependent upon anonymous shareholders to whose dictate the journalists had to formulate the so-called public opinion.

But then sometimes they tell us that freedom of the press still exists abroad, for instance, in England, there the press, they say, is not being directed and supervised as in Germany. That may be true to a certain extent, but one must not forget that England's national political conditions are entirely different from our own. England has been a unified national state for centuries. The English nation today represents a people which has grown up in security, which perhaps can afford the luxury of an apparent freedom of the press. Germany, however, cannot afford such a luxury. Germany has been a nationally unified state for only four years. Thus our most precious asset, the unity and homogeneity of the nation, must be preserved and maintained with all the means we have at our disposal. Unlike England and France, Germany has lost a war. It must therefore stake its fate on peace.

It therefore follows that the press policy of the National Socialist State is nothing but a continuation of the National Socialist State policy in general, in the sphere of shaping public opinion.

As a matter of fact, the German press had no small share in carrying out the tasks of reconstruction of German honor and security.

The German Reich would not have regained either its military freedom or the Rhineland, it could not have created an impressive Air Force out of nothing, it would have had no motor highroads and monumental structures, it would still be under the fetters of the War Guilt Clause, and the Treaty of Versailles would be even today a constituent part of the Constitution, if the leading articles of the German Press were still written, as they formerly were, by journalists who controlled all these problems without any sense of responsibility or discipline. They would have talked them away even before a solution of these problems could be thought of.

That brings me to the question of what Party and State can do to grant the press that position needed by it in the interest of the public. Public estimation of the German press cannot be a matter of indifference to the National Socialist State. For, if the

German press has grave tasks to fulfill today, of national-political and cultural significance, then the State must naturally be concerned as to whether the German people are conscious of the significance and importance of their press

National Socialism has provided that the measures introduced for the censoring and supervision of the press shall be conducted according to a system with a definite end in view. We have a Ministry of our own with a greatly extended Press Department, from which all press matters and personnel are directed and guided in the most comprehensive manner which can possibly be conceived. We have the Press Chamber with its full authority over the publishing and owning of German newspapers. We have the Reich Union of the German Press (*Reichsverband der deutschen Presse*), which, with its professional jurisdiction, controls all German editors in connection with their political reliability and with relation to their journalistic qualifications

**B DECREE FOR THE ESTABLISHMENT OF A MINISTRY OF
PUBLIC ENLIGHTENMENT AND PROPAGANDA,
MARCH 17, 1933¹**

For purposes of enlightenment and propaganda among the people concerning the policy of the national cabinet and the national reconstruction of the German fatherland, a ministry for public enlightenment and propaganda is established

The chief of this office bears the title "minister for public enlightenment and propaganda"

The individual duties of the ministry for public enlightenment and propaganda are determined by the national chancellor. He likewise determines—in consultation with the ministries affected—the duties which are to be transferred from their respective spheres of competence to the new ministry, and, also, when the spheres of competence of the affected ministries are touched in their essentials

¹ From J. K. Pollock and H. J. Heneman, *The Hitler Decrees, 1934*, p. 27, Ann Arbor. Reprinted by permission of the editors

C. LAW CONCERNING THE NATIONAL CULTURE CHAMBER,
SEPTEMBER 26, 1933¹

1

The national minister for public enlightenment and propaganda is authorized and empowered to consolidate into corporations of public law the divisions of activity which are included within the sphere of his duties

2

Elected in accordance with section 1 are

- 1 a national writer's chamber
- 2 a national press chamber
- 3 a national radio chamber
- 4 a national theatre chamber
- 5 a national music chamber
- 6 a national chamber of painting and sculpture

4

The establishment of the chambers is to be limited within the policies to be decided upon by the national government for the professional-corporation structure

5

The corporations named in section 2 are united together with the provisional film chamber, which now receives the name national film chamber, into a national chamber of culture. The national chamber of culture falls under the supervision of the national minister of public enlightenment and propaganda. Its seat is Berlin.

6

The national minister for public enlightenment and propaganda and the national minister of economics are empowered to co-ordinate through a common decree, regulations under the trade decree with the regulations of this law

¹ *Ibid*, p. 29

D LAW PROHIBITING THE FORMATION OF NEW POLITICAL PARTIES, JULY 15, 1933¹

1

The National Socialist German Worker's party is the only political party in Germany

2

Whoever undertakes to maintain the organization of another political party, or to form a new political party, is to be punished with imprisonment in a penitentiary up to 3 years or with confinement in a jail from 6 months to 3 years unless the act is punishable by a higher penalty under other provisions

131 CITIZENSHIP IN THE THIRD REICH

The present German law on citizenship was voted by the Reichstag on September 15, 1935. One of the main objectives was to deprive the Jews of citizenship. Executive orders issued under the law have been specific on this point. The German law presents several very unusual features when compared with the legislation of other countries. It shows little respect for either the *jus soli* or the *jus sanguinis* doctrine. Citizenship may be determined more by conduct than by place of birth or parentage. In order to retain citizenship, one must show that he is "both desirous and fit to serve faithfully the German people and the Reich." The text of the law of 1935 and extracts from the decree of November 14, 1935, follow.²

A LAW OF SEPTEMBER 15, 1935

The Reichstag has adopted unanimously the following law which is herewith promulgated

ARTICLE 1

(1) A subject of the state is he who belongs to the protective union of the German Reich and who, therefore, has particular obligations towards the Reich

¹ J. K. Pollock and H. J. Heneman, *The Hitler Decrees*, 1934, p. 34.

² Printed in Henri Lichtenberger, *The Third Reich*, 1937, Appendix V. Reprinted by permission of The Greystone Press, New York.

(2) The status of the subject is acquired in accordance with the provisions of the Reich and State Law of Citizenship

ARTICLE 2

(1) A citizen of the Reich is only that subject who is of German or kindred blood and who, through his conduct, shows that he is both desirous and fit to serve faithfully the German people and the Reich

(2) The right to citizenship is acquired by the granting of Reich citizenship papers

(3) Only the citizen of the Reich enjoys full political rights in accordance with the provisions of the laws

ARTICLE 3

The Reich Minister of the Interior in conjunction with the Deputy to the Fuhrer will issue the necessary legal and administrative decrees for the carrying out and amplification of this law

Promulgated September 16, 1935 In force September 30, 1935

B DECREE OF NOVEMBER 14, 1935¹

ARTICLE 1

(1) Until further provisions regarding citizenship papers all subjects of German or kindred blood who possessed the right to vote in the Reichstag elections at the time the Law of Citizenship came into effect shall for the time being possess the rights of Reich citizens. The same shall be true of those upon whom the Reich Minister of the Interior in conjunction with the Deputy to the Fuhrer shall bestow citizenship

(2) The Reich Minister of the Interior, in conjunction with the Deputy to the Fuhrer may revoke citizenship

ARTICLE 2

(1) The provisions of Article 1 apply also to subjects who are of mixed Jewish blood

(2) An individual of mixed Jewish blood is one who is descended from one or two grandparents who were racially full Jews, in so far as he does not count as a Jew according to Section 2 of Article 5. As full-blooded Jewish grandparents shall be considered those who belonged to the Jewish religious community

¹ *Ibid.*, p. 312.

ARTICLE 3

Only citizens of the Reich, as bearers of full political rights, can exercise the right of voting in political affairs, and can hold public office. The Reich Minister of the Interior or any agency empowered by him can make exceptions during the transition period with regard to occupying public office. These measures do not apply to affairs pertaining to religious organizations.

ARTICLE 4

(1) A Jew cannot be a citizen of the Reich. He cannot exercise the right to vote, he cannot occupy public office.

(2) Jewish officials are to be retired as of December 31, 1935. In case these officials served at the front in the World War either for Germany or her allies, they shall receive as pension, until the attainment of the age limit, the full salary last received, on the basis of which their pension would have to be computed, they do not however advance according to seniority grades. After they reach the age limit their pension is to be calculated anew according to the salary last received on the basis of which their pension was to be computed.

(3) Affairs of religious organizations are not concerned therewith.

(4) The conditions of service of teachers in public Jewish schools remain unchanged until the new regulation of the Jewish school system.

ARTICLE 5

(1) A Jew is anyone who is descended from at least three grandparents who were racially full Jews . . .

(2) A Jew is also one who is descended from two full-Jewish grandparents if

(a) he belonged to the Jewish religious community at the time this law was issued or who joined the community later

(b) at the time the law was issued he was married to a person who was a Jew or was subsequently married to a Jew.

(c) he is the offspring from a marriage with a Jew, in the sense of Section 1, which was contracted after the coming into effect of the Law for the Protection of German Blood and Honor of September 15, 1935

- (d) he is the offspring of an extramarital relationship with a Jew, according to Section 1, and will be born out of wedlock after July 31, 1936 . .

132. THE CIVIL SERVICE

The law of January 26, 1937, laid down the rules for appointment and removal of members of the civil service, as well as their rights and duties. Under the act all officials are Reich officials, irrespective of whether they were appointed by Reich, Lander, or public corporation authorities. The author of this article is a member of the German civil service. (Dr. Erich Kordt, "The Public Servant in Germany," *Public Administration*, XVI, April, 1938, 173-84) ¹

All officials are appointed in principle by the Fuhrer. In practice the Fuhrer has delegated, however, this power to the corresponding Ministers of the Reich, or of the Lander. He reserves for himself, however, the right to appoint personally the officials of the so-called "Higher Service." There are three other classes of officials besides the Higher Service, which are mainly appointed by the corresponding Ministers, or subordinated authorities, namely —

- (1) The lower-grade Service, to which belong mainly the manual workers, who are appointed officials of the administration,
- (2) The Intermediate Service, which comprises lower rank clerks, and other technical officials,
- (3) The Higher Intermediate Service, to which belong official clerks and secretaries, who have fulfilled certain conditions.

In order to be eligible for appointment, the prospective official has to fulfil certain conditions. He must be specially qualified for the career he intends to take up. Special training and in most cases examinations are required for the classes of the Intermediate, the Higher Intermediate, and the Higher Service. Apart from the professional qualifications, the prospective official must satisfy the appointing authority that he will be loyal to the new German State, and that he and his wife are of Aryan extraction. Before an appointment is proposed, the deputy of the Fuhrer or some person to whom he has delegated his power, must be heard, and the same

¹ Reprinted by permission of *Public Administration*, London

applies to transfer and promotion. In principle all officials are appointed for life, that is to say, until they reach the age limit, or leave the service for other reasons. The appointment of an official becomes valid only after the conferring of a Certificate of Appointment.

In order to bring about a true community between the classes of the population, all Germans and especially all newly appointed officials must have done their six months' Labour Service, and unless physically unfit, completed their two years' military service.

Every official, when appointed, must give the Oath of Allegiance to the Führer, and promise to complete his official duties strictly. He is bound to obey his superiors, unless the illegality of a particular order is evident.

Let me now give you some examples of the net paid-out salaries of the German officials. A Reich Minister gets about 36,000 Marks, from which taxes have to be deducted. Counted at the level of exchange of 12 3 Marks to the £, this corresponds to a net salary of £2,000 to £2,500. Officials of the rank of Permanent Under Secretaries of State, Presidents of the Highest German Law Courts, such as the Reichsgericht, the People's Law Court, the Central Administrative Court, etc., receive about £1,600, Provincial Governors, £1,500, Ministerial Councillors—Assistant Secretaries of a Ministry—at the average £700 p a. The lowest rank of the Higher Services receive from £320 to £560.

The Higher Intermediate Service is relatively well paid, as it receives in its best paid classes approximately the same salaries as the lower ranks of the Higher Service. A subregistrar of a central office gets about £350 to £400, a Police Inspector £200 to £330, a Customs Officer £200 to £300.

Officials of the Intermediate Service, that is, lower clerks, Police Officers, and qualified foremen get an average of £125 to £275 net.

Officials of the Lower Service, such as foremen, workmen, postmen, ushers, porters, night watchmen, etc., get from £100 to £175, the highest salary in each class being always attained only after a service of about 40 years.

All officials receive pensions, when they attain the age limit, or when, because of illness, etc., they cease to be officials at an earlier stage. Pensions increase with the number of Service years, but they never exceed 75 per cent of the salary and of some of the allowances. Widows receive 60 per cent of the pensions due to their

husbands, and further allowances are paid to the orphans up to the age of 21

Another important point in the life of the official is the question of promotion. The German Officials' Law expressly provides that seniority alone is not a reason for promotion. But there are certain restrictions which prevent an official from being promoted too quickly. I mentioned before, that no official can be permanently appointed until he is 27 years old. Another provision prescribes that no official of the Higher Service, which on the average cannot be attained before the age of 29 to 30, can be promoted to the next higher rank before 3 years' Service, and to the rank of a Ministerial Counsellor before 6 years' Service and unless he is 35 years old.

I have not yet mentioned the relationship of the German officials, whether Reich officials or Municipal officials, to the National Socialist Party and its organisations. Membership of the Party is not compulsory for officials, and indeed as application for membership was suspended since the end of April, 1933, only a few, who have been specially selected, have been admitted to the Party, besides those who have joined before that date and the young officials who belonged to the Hitler Youth. Most officials belong, however, to an affiliated organisation of the Party, the Reich Association of German Officials, which is divided into professional sections.

Not less than in other countries the Civil Servant in Germany is the object of caricature and criticism, and the reproach that something is managed bureaucratically absolves the critics from investigating the real causes of some failure in most cases. But apart from that criticism, which may in some cases even prove to be rather healthy, the German public has confidence in the working of the Civil Service.

133. LOCAL GOVERNMENT

The establishment of the leadership principle in the national government has affected the organization of local and municipal government. To bring about the supremacy of the national authority in local matters the German Communal Order (*Deutsche Gemeindeordnung*) was promulgated on January 30, 1935. Although making it possible for the central government to exercise powers within the municipalities, the decree does not convert them into mere administrative districts, for

the municipal activities are fundamentally unchanged. Central supervision is limited by law. The extract below describes the main features of the Communal Order of 1935. Approximately fifty thousand communes are regulated by it (Fritz Morstein Marx, "The New Local Government of Germany," *National Municipal Review*, XXV, September, 1936, 512-13.)¹

The date on which the *Deutsche Gemeindeordnung* (DGO) was promulgated in itself underlines the fundamental importance of the act, for it commemorates the day Hitler rose to the chancellorship in 1933. The preamble makes the obvious explicit by introducing the DGO as a "basic law of the National Socialist State." How do self-government and "national leadership" meet?

The new faith manifests itself along these lines:

(a) The DGO provides all German municipalities, with the exception of Berlin, with one single statutory foundation, thus substituting national control for state control over local government.

(b) Under the act municipalities "must conform to the laws and the aims of national leadership."

(c) For each unit of local government a party delegate is to be appointed whose consent is required for the adoption of the unit's charter. Moreover, he participates in picking the mayor and the mayor's substitutes (*Beigeordnete*), who operate as departmental chiefs, and selects the councilmen.

(d) The responsibility for the conduct of local government is exclusively concentrated in the mayor (*Fuhrerprinzip*), who is aided by the advice of the councilmen. The council does not cast a vote.

On the other hand, the spirit of preservation and restoration finds expression in the following features of the DGO.

(a) The scope of local government has practically not been restricted as compared with established standards prior to the national revolution.

(b) The "rights of municipalities may not be encroached upon except 'by statute.'" Administrative control over local government is exercised through executive departments, with the National Ministry of the Interior at the top, charged with specified supervisory powers under the act. "No other authorities or agencies" are entrusted with the right to impose their will on the municipalities.

(c) The party delegate, who holds no municipal office himself,

¹ Reprinted by permission of the *National Municipal Review*, New York

may exert influence only in the preparation of those measures in which he has the legal authority to participate. In nominating the mayor and his substitutes from all qualified applicants who have responded to the legally prescribed public announcement of existing vacancies, the party delegate does not preclude the supervisory authorities from rejecting all submitted candidates. The selection of mayor and substitutes rests ultimately with professionalized administrative bodies. As to the representative organs of local government, the party delegate may not confine himself to the routine appointment of "politically reliable" citizens as councilmen, but must also see to it that the statutory requirement of "fitness and reputation" is met. In council meetings the members "are obliged to express themselves if their views differ from that of the mayor."

(d) Full-time (salaried) mayors and substitutes, prescribed for all communities of more than ten thousand inhabitants, are appointed for a term of twelve years, nonsalaried for six years. The positions of mayor or "senior substitute" in city-counties are open only to aspirants who have passed successfully through the extensive program of career preparation for the judiciary or the higher civil service. Mayors and substitutes are subject to removal by supervisory authorities only during the first year of their term.

CHAPTER XXII

POLITICAL AND ECONOMIC PROBLEMS

134 RACIAL DOCTRINES OF NATIONAL SOCIALISM

NATIONAL Socialism asserts the superiority of the Germans as representative of the Nordic race. This doctrine of racial superiority is not new to Germany. The Nazi contribution to its development was to win general adherence to it, and to give it expression in government policies directed against the Jews, who are regarded as a threat to racial purity.

Specific charges are made by German leaders against the Jews. They are accused of organizing Socialist and Communist groups both in Germany and abroad. They are alleged, during the period of the Weimar Republic, to have controlled the press, the theater, and the professions. They are condemned for being pacifists and thus weakening the German foreign policy during the postwar period. Three-fourths of the doctors and lawyers in Berlin are said to have been Jewish.

When Hitler came into power in 1933 he lost no time in inaugurating anti-Semitic measures. Discriminatory legislation was enacted, and in 1935 the new law on citizenship divested Jews of their German nationality. In 1938 persecution became even more serious when, in retaliation for the assassination by a Jew of a staff member of the German Embassy in Paris, new decrees were issued, one of which forced a large financial con-

tribution Documents and other materials illustrative of Nazi anti-Semitism are given below

A A GERMAN JUSTIFICATION FOR RACE LEGISLATION

(E. Schinnerer, *German Law and Legislation*, 1938, p. 9) ¹

The most important of the constitutional laws are those designed to maintain the purity of German blood. The word *People* does not mean for National Socialism the total number of German subjects, nor does it mean merely all those with a common history. The people is a political factor which has its own being, and in order to preserve this being its blood must be kept pure and healthy. The foundation of the national being is race. It would be a waste of time to argue about the constituents of race. Races are the stones with which God has built up mankind and our task can only be to preserve them as such. This is the aim of the Act for the Protection of German Blood and German Honour, which was passed by the Reichstag on September 15, 1935. The Act ensures that the German people shall be clearly separated from the Jewish people living on the same national territory. This separation is a strict one, and its results have often seemed to bear harshly on the individual. But only a complete separation in life and law can make it tolerable for two peoples to live together in the same territory. This is to be attained by preventing every kind of blood mixture. Only if there is a healthy mutual feeling that the other race is foreign, can hatred and contempt of the one race by the other be avoided. This Act secures for the future the necessary biological unity of the German people. The Reich Citizen Act of September 15, 1935, supplements the other act in the political sphere. It makes a distinction within the State between German citizens, who are the representatives and foundation of its greatness, and those persons who merely reside in the State for their own profit.

B. LAW FOR THE PROTECTION OF GERMAN BLOOD AND HONOR, SEPTEMBER 15, 1935 ²

Imbued with the knowledge that the purity of the German blood is the necessary condition for the continued existence of the Ger-

¹ Terramare Publications, edited by Richard Monning, Berlin

² Printed in Henri Lichtenberger, *The Third Reich*, Appendix V. Reprinted by permission of The Greystone Press, New York.

man people, and animated by the inflexible will to insure the existence of the German nation for all future times, the Reichstag has unanimously adopted the following which is hereby promulgated.

ARTICLE 1

(1) Marriages between Jews and subjects of German or kindred blood are forbidden. Marriages concluded despite this law are invalid, even if they are concluded abroad in order to circumvent this law.

(2) Proceedings for annulment may be initiated only by the public prosecutor.

ARTICLE 2

Extra-marital relations between Jews and subjects of German or kindred blood are forbidden.

ARTICLE 3

Jews may not employ in domestic service female subjects of German or kindred blood who are under the age of 45 years.

ARTICLE 4

(1) Jews are forbidden to display the Reich and national flag or to show the national colors.

(2) The display of the Jewish colors, however, is permitted for them. The exercise of this right is protected by the state.

C THE REFUGEE PROBLEM

(A statement by Mr James G MacDonald, former High Commissioner for Refugees from Germany, Dec. 27, 1935, *International Conciliation*, No 317, February, 1936)¹

Apart from all questions of principle and of religious persecution, one portentous fact confronts the community of States. More than half a million persons, against whom no charge can be made except that they are not what the National Socialists choose to regard as "Nordic," are being crushed. They cannot escape oppression by any act of their own free will, for what has been called "the membership of non-Aryan race" cannot be changed or kept in abeyance.

Tens of thousands are today anxiously seeking ways to flee

¹ Reprinted by permission of *International Conciliation*, New York

abroad, but except for those prepared to sacrifice the whole or greater part of their savings, the official restrictions on export of capital effectively bar the road to escape, and the doors of most countries are closed against impoverished fugitives. Nevertheless, if the present pressure is not relieved, it is inconceivable that those who can flee will remain within Germany . . .

Relentlessly the Jews and "non-Aryans" are excluded from all public offices, from the exercise of the liberal professions, and from any part in the cultural and intellectual life of Germany. Ostracized from social relations with "Aryans," they are subjected to every kind of humiliation. Neither sex nor age exempts them from discrimination. Even the Jewish and "non-Aryan" children do not escape cruel forms of segregation and persecution. In party publications, directly sponsored by the government, "Aryan" children are stirred to hate the Jews and the Christian "non-Aryans," to spy upon them and to attack them, and to incite their own parents to extirpate the Jews altogether.

It is being made increasingly difficult for Jews and "non-Aryans" in Germany to sustain life. Condemned to segregation within the four corners of the legal and social Ghetto, which has now closed upon them, they are increasingly prevented from earning their living. Indeed, more than half of the Jews remaining in Germany have already been deprived of their livelihood. In many parts of the country there is a systematic attempt at starvation of the Jewish population. In no field of economic activity is there any security whatsoever. For some time it has been impossible for Jewish business men and shopkeepers to carry on their trades in small towns . . .

Again, as so often during their long heroic and tragic history, the Jewish people are used as the scapegoat for political and partisan purposes. The National Socialists level against them charges of the most outrageous and untenable kind. They ignore all of the facts of the continuous loyalty of the Jews in Germany—for example, during the empire, when Jews helped to unify Germany and to make it strong, during the war, when a percentage of Jewish youth as high as that of any other religious community in the Reich gave their lives for the Fatherland, and Jewish scientists and men of affairs helped so notably to enable Germany to prolong the struggle, and under the republic, when Jewish leaders aided in saving Germany from some of the worst effects of defeat.

Instead, it has been found useful to attribute to the Jews the responsibility for the misery and dejection which the German people suffered during the last years of the war and the decade that followed. Though less than a one-hundredth part of the total population, the Jews are held responsible for all the adversity which the German people had to undergo. As in the Middle Ages, when they were massacred and expelled from German States as the cause of the Black Death, so today they are eliminated from the economic and cultural life of Germany and degraded on the ground that they were the cause of the German humiliation. So far does this hatred extend that even the Jewish war veterans, who fought and were wounded in the front-line trenches, have been forced from their positions in the public services, and the names of the Jewish war dead may no longer be engraved on war memorials.

The attitude of the German Government is based not only on the theory of "Nordic race" supremacy and the desire to eliminate "foreign racial" elements from the life of the country, it rests also on the conception of the absolute subordination of the individual to the State. An influential section of the party is actively promoting a revival of neo-Paganism which sets itself against both the Old Testament and parts of the New Testament. The conceptions of "blood, race, and soil," propagated with fanatical enthusiasm, menace not alone the Jews, but all those who remain defiantly loyal to the old ideals of religious and individual freedom.

**D ANTI-JEWISH DECREES OF NOVEMBER 13, 1938
RETALIATION FOR ASSASSINATION OF A MEMBER
OF THE GERMAN EMBASSY IN PARIS**

FIRST DECREE

Article 1. All damage done to Jew business and homes on Nov. 8, 9 and 10 as a result of the indignation of the people at the incitement of international Jewry against national socialist Germany to be repaired immediately by the Jew owner or Jew manager.

Art. 2. Cost of repairs is to be borne by the owners of Jew business or homes involved. Insurance claims of Jews of German nationality will be confiscated in favor of the Reich.

Art. 3. The ministry of economics is empowered to make the necessary regulations to carry out these measures in co-operation with the ministers involved.

SECOND DECREE

Art 1 From Jan 1, 1939, operation of retail shops, mail order houses, independent exercise of handicrafts is forbidden to Jews. Moreover it is forbidden Jews from the same day to offer goods or services in the markets of 11 kinds of fairs, or exhibitions or to advertise such or accept orders therefore. Jew shops operated in violation of this order will be closed by police.

Art 2 No Jew can manage a firm according to the interpretation of the term "manager" under the law for national labor of Jan 20, 1934. If a Jew is a leading employe in a business concern he may be dismissed with notice of six weeks. At expiration of this period all claims resulting from the employe's contract, especially claims of compensation or pensions, become null.

Art. 3 No Jew can be a member of a co-operative society. Jew members of co-operatives lose membership from Dec. 21, 1938. No notice is necessary.

Art. 4 Competent reich ministers are empowered to issue rules required by this decree. They may permit exceptions so far as this is necessary for transfer of Jew firms into non-Jew hands or for liquidation of Jew concerns and in special cases in order to insure supplies.

THIRD DECREE

The hostile attitude of Jewry toward the German people and the reich, which does not even shrink from cowardly murder, requires energetic defense and harsh penalties. I therefore prescribe under the four year plan the following: Payment by contribution of 1 billion marks to the German reich imposed on Jews of German citizenship as a community. Rules for application of this decree will be issued by the ministry of finance in co-operation with other interested ministries.

135 CHURCH AND STATE IN GERMANY

Although Hitler has denied that he is opposed to Christianity and has claimed that the revolution in Germany saved the nation from the atheism and materialism of communism, there has been a growing antagonism between organized religious groups and the Nazi regime.

This conflict between Church and State centers about certain tenets of Nazi doctrine and certain methods for accomplishing political ends. The Nazis accept the idea of the fundamental inequality of men, where Christianity stresses equality. The doctrine of race superiority, the persecution of the Jews, the ruthless use of force are all doctrines or policies which run counter to Christian views of love and peace. The government has created a monopoly in the control of the youth of the country and has excluded the churches from participation in education. Protestants and Catholics alike have been brought under Nazi domination, and German Catholics have been subjected to additional stress because they acknowledge loyalty to an authority, although a pontifical authority, outside Germany.

Soon after becoming chancellor in 1933 Hitler began a reorganization of the Evangelical Church with the avowed purpose of unifying it. The office of Reich bishop was created for the purpose of co-ordinating ecclesiastical affairs with the interests of the state, a move which offended devout believers as an unwarranted invasion into religious matters. These conflicting authorities have brought confusion into the relations of Church and State.

The extracts below have been selected to reveal the attitudes of all parties concerned in the religious controversy.

A. STATEMENT OF NAZI RELIGIOUS POLICIES, BY REICH
MINISTER KERRL ¹

In contradistinction to liberalism, the National Socialist State cannot suffer any "state-free spaces" which might serve to disintegrate the nation, it neither can nor will release any member of the community out of its sphere. Every German must subordinate himself to the principles of our government of state. The innermost urge of the nation is towards freedom of religion. The disputes between Church and State never have a religious basis. The Christian confessions have been led away from their religious mission and brought into politics. The Council of Nicea is the starting point of the political power of the Roman Catholic Church and its

¹ *News in Brief*, December 31, 1937, p. 208

ambitions to gain temporal dominion. Blood and tears, inquisition, witch-trials, all the atrocities of the wars of religion mark the path of the struggle of the Church for political power. It would be fundamentally wrong, however, to lay the burden of that development on the Christian Church itself, it was rather a consequence of the fact that the Churches became the political instruments for the acquisition of temporal power.

Neither Party nor State have [sic] any intention of setting up a state religion or a state church. The Party and the State take their stand upon a religious, but not a confessional, basis of a Christian faith of German or of any other type. Point 24 of the Party Programme with its clear profession of positive Christianity is alone valid for us. According to the life, the words, and the deeds of Jesus Christ, as exposed by the Evangelists for our judgment, they do not run contrary to the tenets of National Socialism, which has led the German nation to a new, positive Christianity of action by awakening an unshakable feeling of community.

The National Socialist State is religious. Philosophical theory of life and religion are to be traced to a common stem, for both are but two different approaches of humanity to the question of conduct, "How must I act?" The National Socialist philosophy of life has given a conclusive answer to that query, we know that the German nation has not grown at the hazard of human will, but organically according to divine will from the community of the same blood. It is consequently our duty to apply all our powers and all our actions to ensure the security of this divinely ordained community of the German nation. If religion is to be termed obligation, then we know that we have been enjoined by God himself to tread the path of our duty. Although our movement is thus religious and must be so, it is by no means confessional, it respects the right of the individual to create for himself his conception of God and to be free to decide to which religious persuasion he is to give his allegiance. The movement is therefore no judge of which confession more correctly interprets the conception of the Divinity or of the revelation said to have taken place, and it will never take part in a dispute on that point. But it must demand that no confession interferes with the principles which every member of the community is enjoined to carry out for the attainment of the common goal. It is at once from these principles that the conduct of the State must secure liberty for every member of the community.

to seek out his religious persuasion for himself. Consequently it cannot grant privileges permanently to any single confession. It must, therefore, gradually bring about a state of affairs in which the religious communities have to rely upon the support of the offerings of their believers alone. Parents will naturally be at perfect liberty to educate their children in accordance with their religious views. But the adult should not evade a decision, but should be able to choose his religious community of his own free will and without compulsion or constraint. That can only meet the interests of the religious community itself.

There is no intention of doing away with the rights of the Churches as corporations, especially since the National Socialist State has no interest in the formation of countless sects. Tax legislation is independent of corporation rights and must be altered in such a manner that the State preserves the liberty of its citizens and can only afford the Church its support for the collection of taxes when perfect religious liberty has become an accomplished fact.

B. THE VIEWS OF THE EVANGELICAL CHURCH SUBMITTED TO CHANCELLOR HITLER IN JUNE, 1936¹

We sincerely hope that in order to prevent the aggravation of the religious combats in Germany the government of the Reich will listen to what the Evangelical Church has to say. When the National Socialist party declared in its program that it stood on the basis of a "positive Christianity" the whole church population could not but understand and was intended to understand that the Christian faith, in conformity with the confessions and the preaching of the church, should be accorded freedom and protection in the Third Reich, and even help and encouragement.

Later on, however, authoritative persons in the State and in the party have given quite an arbitrary interpretation to the words, "positive Christianity." The Reich Minister for Propaganda and National Enlightenment, for example, declared positive Christianity to be merely humanitarian service, and joined to this interpretation occasionally an attack on the Christian churches and their allegedly inadequate achievements in the domain of Christian

¹ *International Conciliation*, No. 324, November, 1936. Reprinted by permission of *International Conciliation*, New York.

charity, although the State itself had considerably restricted them by its prohibitions since the year 1933

Then Herr Rosenberg, Reich organization leader, proclaimed his mystic doctrine of the blood to be positive Christianity, and, following his example, other notable party leaders defamed as being negative the Christianity as confessed by believers

Other members of the Reich Government have, under the cloak of positive Christianity, divested of their confessional character categorical conceptions of the Christian faith, such as belief, love, eternity, prayer, resurrection, and have given them a new, purely worldly, psychological interpretation This has been done even by Herr Kerrl, Reich Minister for the Churches

Officially, it is true, intervention in any form in the internal structure and in the religious life of the Evangelical Church is disclaimed

As a matter of fact, one interference has followed the other until today since the elections forced on the church in July, 1933

The most important of these interferences are (1) The installation of the State Commissar in Prussia on June 24, 1933, and of State Commissars in Bremen, Hesse, Lippe, Mecklenburg, and Saxony (2) Ordainment of universal church elections by the law of the Reich, promulgated on July 15, 1933 (3) Speech by the Fuhrer in favor of German Christians, broadcast on July 22, 1933 (4) Prohibition to publish anything concerning church affairs by decree (unpublished) of the Reich Minister of the Interior on November 6 and 7, 1934 (5) Establishment of the State Finance Department by the Prussian law of March, 1935 (6) Establishment of an authority over resolutions by Reich law, in June, 1935 (7) The law of September 24, 1935, to secure the German Evangelical Church, and the church committees set up thereupon by the State

Against individual clergy (1) Arrest of the Bishop of Wurttemberg and Bavaria in 1934. (2) Conveyance of clergy into concentration camps, especially in Saxony and in Nassau-Hessen (3) Expulsion of clergy from their parishes, at times from their home province, especially in Prussia (4) Arrest of 700 pastors (Pfarrer in Prussia), in connection with the reading from the pulpits, ordered by the Old Prussian Synod in March, 1935, of the proclamation against modern paganism (5) Permanent prohibition to hold confessional church services, clergymen and laymen forbidden to

A movement has been started with the watchword "De-confessionalizing" or "to overcome the confessional disunion," which is intended to render impossible the public work of the church

The Evangelical Church's own youth organization has long since been taken away from it by an agreement between the Reich Youth Leader and the Reich Bishop, who was in no sense entitled to enter into such an agreement. Even the full rights accorded by that arrangement are frequently not permitted to the Evangelical members of the National Socialist Youth Organization

In violation of the rights of the church the confessional schools are being abolished, and in this respect the strongest pressure is brought to bear on the conscience of the parents. The course of lessons for religious instruction that has been approved by the authorities is frequently ignored, and in many places today essential portions of Biblical instruction are simply expunged from the religious course (Old Testament), or un-Christian material is put in its place (Old-German Paganism)

C ENCYCLICAL OF POPE PIUS XI TO THE VENERABLE ARCHBISHOPS AND BISHOPS OF GERMANY, MARCH 14, 1937¹

1) With deep anxiety and increasing dismay, We have for some time past beheld the sufferings of the Church, and the steadily growing oppression of those men and women who, loyally professing their faith in thought and deed, have remained true to her amidst the people of that land to which St. Boniface once brought the light and glad tidings of Christ and the Kingdom of God . . .

3) In the summer of 1933, Venerable Brethren, We accepted the offer made by the Government of the Reich to institute negotiations for a Concordat in connection with a proposal of the previous year, and to the satisfaction of you all brought them to a conclusion with a solemn agreement. In this We were guided by the solicitude incumbent on Us to safeguard the freedom of the Church in the exercise of her apostolic ministry in Germany and the salvation of the souls entrusted to her, and at the same time by the sincere wish of rendering an essential service to the progress and prosperity of the German people

4) In spite of many serious misgivings at the time, We forced

¹ Reprinted from Henri Lichtenberger, *The Third Reich*, p. 345. Reprinted by permission of The Greystone Press, New York

Ourselves to decide that We should not withhold Our consent. We wished to spare Our faithful sons and daughters in Germany, so far as was humanly possible, the anxiety and suffering which, in the given circumstances, We would certainly have otherwise had to expect. Through Our act We wished to prove to all that, seeking only Christ and the things of Christ, We do not refuse the hand of peace of Mother Church to anyone who does not himself reject it.

5) If the tree of peace which We planted with pure intention in German soil has not borne the fruit We desired in the interests of your people, no one in the wide world who has eyes to see and ears to hear can say today that the fault lies with the Church and her Head. The lessons of the past years make it clear where the responsibility lies. They disclose machinations that from the beginning had no other aim than a war of extermination. In the furrows where We labored to plant the seeds of sincere peace, others were sowing—like the enemy of Holy Scripture—the tares of distrust, of discord, hatred, calumny, of secret and open enmity against Christ and His Church, an enmity in principle, fed from a thousand springs and working with every means at its disposal. With them and only with them, as well as with their open and silent supporters, lies the responsibility that now, instead of the rainbow of peace, the storm-clouds of destructive religious conflicts are visible on the German horizon.

6) We have not tired, Venerable Brethren, of portraying to the responsible guides of the destinies of your country the consequences that necessarily follow if such trends are left unhindered and much more if they are viewed with favor. We have done everything to defend the sanctity of a word solemnly pledged, to protect the inviolability of obligations, freely undertaken, against theories and practices which, if officially approved, must destroy all confidence and render valueless any word that might also be pledged in the future.

Everyone in whose mind there is left the least perception of the truth, in whose heart there is a trace of feeling for justice, will then have to admit that in these grievous and eventful years after the signing of the Concordat, in every word and in every action of Ours, We have stood faithful to the terms of the agreement. But with amazement and deep aversion he will be obliged to admit that to change the meaning of the agreement, to evade the agreement, to empty the agreement of all its significance,

and finally more or less openly to violate the agreement, has been made the unwritten law of conduct by the other party

136 PLANNED ECONOMY

The totalitarian state regulates the economic life of its people. The following article describes the thoroughness with which this is done in Germany and the enormous power exercised by the state under such a system. The extent of this regulation led the author of the following article to assert that capitalism has been destroyed (By V, "The Destruction of Capitalism in Germany," *Foreign Affairs*, XV, July, 1937, 595-607.)¹

The basis of planned economy in Germany as well as in Russia is complete control of exports and imports. Not one carload, not one parcel, crosses the German border in either direction without the special permit of the Government. No German is even supposed to sell anything abroad without such a permit. Whether and when it is granted is not primarily a matter of market consideration. The German importer cannot buy where he gets the best quality at the lowest price, the German exporter cannot sell wherever he might find a competitive chance. An extremely elaborate system has been built up for the control of foreign exchange, and it tends to become more and more rigid.

As early as March 1934 the so-called *Ueberwachungsstellen* (Control Offices) were created, first to govern the importation of textiles, non-ferrous metals, rubber, etc., so that such imports might be reserved exclusively for military purposes. The control offices were authorized to fix quotas for purchases of raw materials and to limit inventories kept by manufacturers and dealers.

It could not stop, of course, at this point. In regulating the inflow of raw materials, the State had to regulate also their use. It had to see that they were consumed most economically; it had to assign certain quantities of raw materials to individual factories and at the same time prescribe what they should be made into. It had to prevent others from acquiring those materials for unnecessary purposes. It had to control inventories, to order genuine materials to

¹ Reprinted by permission of *Foreign Affairs*, New York

be mixed with substitutes, and so on and so on. In other words, the import monopoly of the State leads inevitably to a system of complete control over the whole economic machinery.

The same is true of the control of exports. Since exports must at any cost be maintained in order to create the means of payment for necessary imports (part of which was required for non-economic purposes), exports must be subsidized, and since the greater part of German imports is derived from countries with exchange restrictions similar to Germany's own, exports must be directed to these countries, regardless of whether the individual transaction is profitable. By a system of ingenious devices, the price level of German exports is kept apart from the domestic price level. Exports are subsidized by premiums charged to imports. Restrictions of imports apply particularly to manufactured goods, while imports of foodstuffs and raw materials are favored.

Since markets and prices no longer function, the Government has to pass on capital investments. Construction of all kinds requires a special governmental permit. Factories for certain products cannot be erected, for these products are designated as "unnecessary." The same rule applies to the extension of the existing plants or the enlargement of their capacity. New construction must also be approved according to a descending scale of urgency: (1) armaments, (2) food supply, (3) domestic raw material production, (4) promotion of exports, (5) housing, if materials and labor remain.

Restrictions apply equally to merchandizing. The opening of a new retail store is generally prohibited. No one is free to employ the little savings he may have to establish an independent life of his own unless, again, he is able to obtain a special permit. And, of course, there are restrictive laws against department stores and chain stores, which must not expand any more.

But it is not only in a negative way that the Government controls production. Certain types of construction and manufacturing are furthered and expanded by the State, such as all kinds of construction directed by the Government itself, armament factories, huge public buildings, including innumerable party buildings in every fair-sized city of the country, and motor highways. An example is the promotion of the automobile industry in order to stimulate the motorization of the country, by cutting the prices of automobiles, by tax privileges for purchase, replacement and main-

tenance of automobiles, etc. Another is the erection of new and rapidly growing national industrial plants for the manufacture of substitute materials.

The agricultural sector was planned earlier and more completely than the industrial. The so-called *Reichsnachstand* (nutrition estate) fixes prices for every product. It orders how much the farmer has to be paid for his wheat, how much the miller has to charge for milling, how much the bakery is allowed for baking, how much the grocer may add before he sells the bread to the consuming public. This applies to every kind of cereal, fodder, cattle and hogs, meat and fats, dairy products, fruits and vegetables. The execution of this planning is entrusted to so-called *Marktverbaenden* (marketing boards), which fix prices, regulate supply, and order the margin permitted to dealers and manufacturers. Every farmer is charged with the delivery of a certain quantity of his products, measured by his acreage and the number of livestock. Every farmer has to raise the crops the Government wishes, he has to use so much fertilizer of such quality as is apportioned to him, to plant the kinds of seeds the Government orders. He has to sell his products exclusively through those channels of trade which function as agents for the local authority, under prescribed terms. And he lives under the threat of being driven from his soil if it is considered that he is not complying with the political or economic standards set for him by the Government.

The corollary to regulation of production and trade is regulation of consumption wherever a shortage of supply requires a cut in consumption. The system was practiced generally during the war. It is now applied particularly to fats. Everybody in a town is assigned to a retailer from whom he is entitled to buy a limited quantity of butter, lard and other fatstuffs, if and when available.

Complete control of production and distribution requires equally complete control of money and credit. When the Hitler Government came into power, the German banks, with almost negligible exceptions, were already dominated by the Reich.

All banks receive direct instructions from the Reichsbank, which itself is a government agency. The Reichsbank is virtually the supreme central agency on which the execution of the whole plan depends. It is the Reichsbank which directs and controls the financing of all private business. Without the consent and interference of the Reichsbank virtually no major business transaction

may be negotiated and concluded. It is no mere accident that as President of the Reichsbank, Dr. Schacht exercised control long before he was appointed Minister of Economics.

137 ECONOMIC SELF-SUFFICIENCY

Hitler has said that while economic self-sufficiency is unsound in principle, Germany is forced to adopt it because of the policies of other nations. It is true that the tariffs, quotas, and other trade restrictions adopted the world over had made it difficult for Germany to sell her products abroad in sufficient quantity to pay for her imports. But even more important from the German point of view are the political considerations of the diplomatic tension of recent years, the possibility of war, and the vulnerability of Germany to blockade. Self-sufficiency in time of war would strengthen German defenses immeasurably.

In 1936 Hitler announced a four-year plan during which self-sufficiency would be sought. In 1938, Goering, who had been placed in charge of the plan, announced that great progress had been made, and that Germany could stand the economic pressure of a war which might last many years. The following discussions describe the German economic program and some of the conditions and tensions which have resulted from it.

A HITLER'S PROCLAMATION OF THE FOUR-YEAR PLAN, NURNBERG CONGRESS, SEPTEMBER, 1936¹

The problems of our national economic subsistence bristle with difficulties.

The 136 human beings who populate on an average the square kilometre in Germany cannot find complete sustenance from what nature has placed at their disposal, in spite even of the greatest exertions and the most ingenious utilization of the space allotted for their existence. What the German farmer has brought to pass just within the last few years is unique and stands by itself. What

¹ *News in Brief*, September 28, 1936

the National Socialist State has effected in the way of cultivation of the last stretch of moor and the last marsh in Germany cannot be surpassed

But, in spite of all that, there will always be a deficiency in certain departments of our food supply, and it is all the more difficult to meet that deficiency by importation from abroad, because we unfortunately do not possess a number of the most important raw materials in our country

German economics are consequently compelled to cover the deficiency of foodstuffs and raw materials by an exportation of industrial products which must likewise take place under all circumstances, because the imports cannot be dispensed with, especially as far as foodstuffs are concerned

Now since the National Socialist State is not minded to restrict its population under any circumstances, but is determined, on the contrary, to raise this most natural fertility of the nation, we are compelled to reflect upon and ponder over the consequences of this development in the future. No considerable increase in the yield of the soil is possible and there is hardly any possibility of a considerable increase in exports in the immediate future

THE NEW FOUR-YEAR PLAN

It is, therefore, the task of the leaders of the National Socialist State and its economic machinery to investigate what essential raw materials, fuel, etc., can be produced in Germany itself.

The foreign currency thus saved will serve in future to ensure our food supplies and to purchase those materials which cannot be produced in Germany. This, therefore, is the new four years' programme which I now put forward

In four years' time Germany must be completely independent of foreign countries for all materials which can be produced in any way by German skill, chemistry, engineering or mining. We will be able in this way to increase national production in many fields, and thus to make it possible to reserve the income from our exports for the purpose of obtaining foodstuffs and the raw materials which we still lack

I have just given the necessary orders for carrying through this huge economic plan. It will be executed with National Socialist energy and vigor

Germany, however, cannot renounce the satisfactory solution of

her colonial demands The German people's right to live is no less than that of any other nation

I know that this new programme presents a mighty task It is, however, already scientifically accomplished in many spheres Methods of production are being tried out, and have in part already been decided upon and established It will thus be merely a question of our energy and determination to realize this programme As National Socialists we have never known the word "impossible" in our language, and will therefore not make it an addition to our vocabulary

In four years we will again give account to the nation of this colossal work of securing its foodstuffs and thereby its life and independence

B THE GERMAN ECONOMIC SITUATION

(Graham Hutton, "German Economic Tension Causes and Results," *Foreign Affairs*, XVII, April, 1939, 524-37) ¹

For six years the Third Reich has been an economist's laboratory The experiments were neither decided by economists nor conducted under their control, but it was possible for economists all over the world to observe their unfolding at a breakneck pace

The essence of the Nazis' economic program since 1933 can be stated simply It has been to take up not only the pre-1933 slack in Germany's productive system, but in addition a good deal of what was still "taut" in 1933 for consumers' needs, and to switch this increased sector of productive resources, now under state control, over to production of nothing but armaments, arms factories and equipment, strategic and para-military public works, buildings, new communications, etc The real cost (as economists say) of this gigantic endeavor is the amount of consumers' goods and services foregone by the German people They were called on to give up for strategic purposes not only all the pre-1933 slack in their national productive machine, but also a wide segment of the post-1933 economy as well, plus entirely new "discoveries" of national resources, like increases of hours of work from daily averages of 6.91 hours in 1932 (or 7.67 in 1929) to 7.68 in 1937 and 8.04 last year, without any commensurable increase in earnings On the

¹ Reprinted by permission of *Foreign Affairs*, New York

other hand, as fast and as far as the Nazi party-state superseded private businessmen as the initiative-takers in new enterprise (i.e., investment or creation of capital goods out of available resources), so Germany's former slack was taken up. Unemployment disappeared, partly because of the state's military "boost" to the national economy, partly because of the equally rapid building of new and vast armies of soldiers, the increase of various kinds of police, of prisoners in camps, of Storm Troops, of officials for new state boards, etc. Not only had the new war equipment to be produced, but men had to be employed and paid to produce it. It contributed nothing to the consumable percentage of the national income, indeed, compared even with the bad year of 1932, it further reduced that consumable portion. Thus, by mid-1937, when it became obvious that the Reich was nearing the point where it was employing existing domestic resources to the full, two things also became apparent. They were both economic dangers for the Reich. They were both emphasized by Dr. Schacht as such.

The first was this. If the party-state's armament program was to expand and accelerate at a constant rate, then either substantial further cuts in production of consumable goods and services would have to be made, or else a real inflation would arise. In other words, conversion of new purchasing-power for state contracts into new equipment, arms, etc., would be impossible, since there would not be resources and labor available, so that after that peak-point the new funds for new contracts would simply be used by contractors and even government agencies to bid against each other for existing, limited resources. The expression of this would be a cumulative rise in all prices. Since the word "inflation" has a worse connotation to German ears than the word "war," this first danger might have been expected to be taken seriously by the party-state's leaders.

The second danger was as follows. From 1933 to 1937 the party-state had confined its proletarian, collectivist, Socialist measures to all foreign trade and transactions, to industrial relations, and to that percentage of the Reich's national income created and controlled by the state. But after 1937, with the state's share of the national income approaching 50 per cent, and with the use of national resources approaching the limit, Germany faced the real dangers of an increasingly rigid Socialist state. And it was a state whose resources of men and materials could not compare with Russia's, whose dependence on industry had been enlarged and not

lessened by the Nazi régime, and whose burden of totally unproductive labor and output was already reaching 25 per cent of the whole—a figure higher than that in any other capitalistic nation in peacetime, present or past. Accordingly, if the party-state was to continue its program at its constantly accelerated rate of progress, it must eliminate the remaining vestiges of private property and enterprise, e.g., by capital levies, expropriations, forced labor (increased hours without commensurate recompense), and state control of all production, both of producers' and consumers' goods. It was against this spectre that Dr. Schacht took his stand.

Let us examine the evidence in two parts: that concerned with domestic economy, and that concerned with foreign trade.

Domestically, all the German indices show what in normal times and a normal national economy would be called "full capacity." Since the end of 1937, despite the acquisition of some 425,000 unemployed in Austria and the Sudetenland, unemployment has virtually disappeared within the enlarged Reich, while women are being drafted back to factories and hours for male workers are steadily being lengthened. The output of consumption goods has not even kept pace with the increase in population during 1938 (10,000,000 souls) so that, even if wage-rates and overtime-rates were raised—and officially that has not taken place, though unofficially there is reason to believe that some bonuses have been granted—the purchasing power of the extra consumers could only express itself as more money for the same amount of goods. Result: higher retail prices. In fact, retail prices have tended to jump rather rapidly during 1938, and this may be the reason. But they have only tended to do so, for on the other hand the rigid price-controls have come into play, rationing has been clamped down harder, more consumers' purchasing-power has thus been unable to buy more of the needed commodities (meat, butter, milk, eggs, fruit, textiles), and as a result the extra consumers' purchasing-power has gone to swell the deposits in the savings or other banks.

Like the compulsory contributions from both employers and employed to the unemployment insurance fund, the savings banks and other repositories of voluntary or forced savings have been compelled to take up Government paper, either directly or indirectly, and as there is no unemployment, and the Labor Front organization permits no arbitrary discharge of employees by employers, the unemployment fund has become a vast, continuous tax on em-

ployment and enterprise. The proceeds, like the proceeds of most private and corporate savings or profits in the Reich, are at once whipped back into the State's coffers, to issue thence in payment once again for contracts falling due. Only the state's paper (its varied bills and long-term bonds) shows any increase comparable with the rise in national income, which was from Rm 45.2 billions in 1932 to the 1928 level of 76 billions last year. But the interesting feature for our purposes is that, in 1938 alone, primarily as a result of Dr. Schacht's insistence last March on the cessation of issues of new work-creation bills, the Reich's issues of long-term debt increased by Rm 8 billions. This is three times the amount so raised (or consolidated from the floating, short-term debt) in 1937, and more than half of the total of Rm 15½ billions consolidated from short-term debt since such consolidation began in 1936. The last of these issues, that for Rm 1½ billions last December, took over five weeks to subscribe, and the last 400 millions had to be forced down the throats of the already gorged savings banks, insurance institutions, and the like. This, within nine months of Dr. Schacht's warning, is proof enough that after five years of compulsory levies, rising taxes, confiscated reserves, etc., the once free German capital market has been denuded of its resources. True, they might be built up again, but only if the process which denuded the market of them were itself to be halted. And that, after the removal of Dr. Schacht, may be very difficult.

On the social side, the Reich's economic system is beginning to weigh heavily upon the workers. There is no unemployment, but there is an almost as embittering compound of conscription, forced labor service, voluntary offerings for party or Winter Help funds, protracted hours of work without direct consultation of the individual workers (though the Labor Front conducts the negotiations), and—the last straw, since Munich—the power of the party-state to pick up a man and remove him from one job and one locality to another, without explanation or compensation. No German citizen-worker would, perhaps, wish to grumble at a régime which has given to his beloved Germany so mighty a place in the modern world. Even if he grouched a bit, and even if he wanted to be ruled by another system, he could not do a single thing about it—except to register his discontent by being a bit slack in his work in the factory. The fact remains that, in time of so-called peace, the Nazi party-state has driven its workers and apprentices to a

point where, after only five years, the skill and output per man have begun sharply to decline. As to standards of living, the German housewife has even less say in affairs than her husband, she has to exercise as much ingenuity in running her budget as the state's experts have to do in trimming their secret budget, yet it is probably still true that a majority of German housewives would vote enthusiastically for the Leader on an absolutely free vote (The régime has not only given women their men, but forced the men either to stay at home or to be under state supervision!) But to every urban dweller in Germany above the stratum of the lowest-paid workers and unemployed in 1932, even in the richest stratum, it is no longer a matter of dispute what has happened to the standard of living. Yet all is suffered for a purpose long clarified by able propaganda, and all hardships are laid by the same propaganda at the doors of gorged, encircling and implacable foreign Powers. Only now, especially after Austria and Czecho-Slovakia, the encirclement and the implacability do not impress German minds so much. The people want peace—less glory and less tension. This may explain why, in the last three months, official explanations and arguments in Germany have seemed unduly vague, complicated and involved. .

But when all this evidence is reviewed, we still cannot prophesy immediate economic disaster for the Nazi party-state. To begin with, most of us who live in the happy-go-lucky countries would count it an economic disaster to have to live as the German people have now had to live for five years. Secondly, we have learned that men and women will quietly put up with the continuance of conditions against which cattle would probably kick. Thirdly, as Adam Smith reminded us over 150 years ago, "there is a lot of ruin in a nation." Fourthly, the belt can be remorselessly pulled in, as long as there is still a little stomach left within it, and as long as the notches are closely spaced. Fifthly, no outbreak or open opposition of any kind against the Nazi party-state in peacetime is thinkable. On the other hand, though the Reich can keep its hand-to-mouth, Peter-and-Paul economy going, perhaps even for some years, it cannot simultaneously expand its current armaments program, its productive capital-equipment, cover all its maintenance charges, and provide duly for all obsolescence, without henceforth plunging its 80,000,000 Germans into the kind of servile collectivism, both political and economic, against which its leaders in the recent past

have been wont to inveigh as "Bolshevism" Of course, its latest batch of new taxes and tax-increases—on company directors, bachelors and spinsters, and on moderate or higher incomes—proves that the party-state is intent on taking this Leftward path It can, in reality, take no other The economic system which nominally began as a "bulwark against Communism" is merely approaching its logical Communist end.

138 LABOR

Labor problems have been given much time and attention in the Third Reich Several experiments have been made on a large scale, three of which will be treated under this heading.

A. THE LABOR SERVICE

Before Hitler came into power, the Brüning Government in 1931 established labor camps to which the unemployed might go if they wished The Nazi camps, authorized by a law of 1935, go further, creating a system of compulsory labor It was a project which Hitler had proposed years before he became chancellor, having in mind the social as well as the economic benefits to be gained. It was argued that labor camps would help to break down distinctions between social classes, provide discipline along National Socialist lines, and add to the nation's health. The camps are organized on a military basis The extract below is from the Labor Service Law of June 26, 1935¹

ARTICLE 1

(1) The Reich Labor Service is a service of honor to the German people

(2) All young Germans of both sexes are obliged to serve their nation in the Reich Labor Service

(3) The Reich Labor Service is to educate the German youth in the spirit of National Socialism in order that they may acquire a true national community feeling, a true conception of labor, and, above all, a proper respect for manual labor.

¹ Reprinted from Henri Lichtenberger, *The Third Reich*, Appendix iv Reprinted by permission of The Greystone Press, New York

(4) The Reich Labor Service is organized for the carrying out of public welfare works

ARTICLE 2

(1) The Reich Labor Service is under the jurisdiction of the Reich Minister of Interior Subordinate to him, the Reich Labor leader exercises supreme authority over the Reich Labor Service

(2) The Reich Labor Leader is at the head of the Reich Administration of the Labor Service, he determines the organization, supervises the distribution of work and directs training and education.

ARTICLE 3

(1) The Fuhrer and Chancellor of the Reich determines the number of people to be called annually for service and he determines the length of service

(2) Obligation for service begins at the earliest with the completion of the eighteenth year and terminates at the latest with the completion of the twenty-fifth year

(3) Those subject to compulsory service will as a rule be called for Reich Labor Service in the calendar year in which they complete their nineteenth year Voluntary enrollment in the Reich Labor Service at an earlier age is possible

B. THE LABOR FRONT

Soon after the National Socialist revolution, on May 2, 1933, the trade unions were abolished This was not surprising, for they had been centers of Socialist strength Gradually the Labor Front was established in their place and enlarged to include employers as well as employees It has functions which profoundly affect the welfare of the entire nation

The Labor Front is ostensibly not a government organization It has been built up, however, under Nazi supervision, and it is in close touch with government bodies, particularly the Ministry of Labor The Organization Head of the Nazi party, Dr Ley, has been in charge of the Labor Front. (Vaso Trivanovitch, *Economic Development of Germany under National Socialism*, 1937, pp 20-25) ¹

¹ Reprinted by permission of the author and of the National Industrial Conference Board, New York

The task of the Labor Front is to insure industrial peace by creating among the leaders of establishments an understanding of the justified demands of their followers and among the followers an understanding of the economic position of the establishments in which they are employed. In case of disputes, the Labor Front is supposed to settle the dispute and thus to reduce the number of cases going for decision to state authorities, that is, to the trustees of labor and the labor courts.

The Labor Front is administered from the Central Office in Berlin. The office has fourteen sections, which deal with practically every aspect of economic and social life of German labor. The sections or departments are as follows:

- 1 Press Department
- 2 Department for Political Education
- 3 Department of Social Welfare
- 4 Propaganda Department
- 5 National Health Department
- 6 Department for Vocational Training and Placement
- 7 Legal Department
- 8 Youth Department
- 9 Educational Department
- 10 Department for Women
- 11 Department for Housing
- 12 Business Department
- 13 Department for Labor Research
- 14 Department for Evening Leisure

The Department of Vocational Training and Placement is doing intensive work in assisting German workers to find the occupations for which they are best fitted. Vocational training, like every other Labor-Front activity, is combined with education in National Socialist principles.

An interesting experiment in practical socialism is carried on through the department known as "Strength through Joy." This department arranges and helps to finance vacations for millions of German workers at unusually low rates.

The membership of the Labor Front is about 20,000,000. Its annual income is about 300 million *rm*, collected from its members by wage deductions. Payments on account of invalidity and old-age pensions, unemployment assistance, and funeral expenses amount

to about 80 million rm. About 12 million rm. is spent on legal fees for members appearing before the labor courts. The cost of vocational training is about 40 million rm. About 6 million rm. is spent on Labor-Front health offices.

The territorial organization of the Labor Front corresponds to that of the National Socialist party. There are 33 Labor-Front Regions (*Gauverwaltungen*), including a Foreign Legion. There are 841 Districts (*Kreise*) and 14,744 Local Groups (*Ortsverwaltungen*).

In addition to this political organization, the Labor Front is organized by industries. There are 18 industrial organizations (*Reichsbetriebsgemeinschaften*), corresponding to the former German trade unions: foodstuffs and beverages, textile, clothing, building, wood, metals, chemical, printing, paper, transport and public enterprises, mining, banks and insurance, free professions, agriculture, leather, stone and earth, trade, and handicrafts.

The organization of the Labor Front was not completed until March, 1935, when a working arrangement was made for the incorporation within its structure of the employers' associations. At the head of these associations stands Dr. Schacht as the National Socialist Minister of Economic Affairs. Through the Law of February 27, 1934, he was given broad powers to establish a comprehensive organization of industry and trade that could be used by the National Socialist state to carry out its economic policies.

Under the plan developed by Dr. Schacht, the entire business of the country has been organized in the Estate of Industry and Trade (*Organisation der gewerblichen Wirtschaft*). The Estate embraces six national groups of business (*Reichsgruppen*): (1) industry, (2) handicrafts, (3) trade, (4) banking, (5) insurance, and (6) power. The largest national group is that of industry.

C THE LABOR CODE

On January 16, 1934, a Law for the Organization of National Labor was announced. It establishes principles of collaboration between all members of an economic enterprise, in opposition to the Marxist system of class war. Special prominence is given to the idea of leadership in German industry, in order that disastrous class antagonism may be stifled. Private ownership and private initiative in business will remain, subject to state supervision and control.

The act creates advisory councils in business, Labor Trustees (of whom there are thirteen), and Courts of Social Honor. These agencies, working in co-operation with the Ministry of Labor and the Minister of Economy, are expected to maintain economic peace and to promote the joint interests of all groups. The ultimate objective is national unity, a primary aim of National Socialism in all of its phases.

The act provides an interesting social experiment. Like the Italian corporative state, it seeks to harmonize the interests of employers and employees. The main differences between the German and Italian systems relate to methods of organization, the injection of the concept of "social honor" in the former, and the closer relation of the latter with the regular governmental machinery. The following extract is from the official press summary of the German code (*Industrial and Labor Information*, XLIX, No 8, pp 245-249.)¹

LEADER OF THE UNDERTAKING AND TRUST COUNCIL

The Act provides that within each undertaking the employer, as head or "Leader" (*Führer*) of the undertaking, and his salaried and wage-earning employees as his "Followers" (*Gefolgschaft*) shall work together to promote the objects of the undertaking and the common welfare of people and State. The head of the undertaking is responsible towards his staff for all decisions affecting the business, and must seek to promote the welfare of his employees, who in turn must serve him with the loyalty on which the works community is founded.

The employer, or in the case of incorporated persons or groups of persons, his lawful representative, may delegate a person holding a responsible post in the management of the undertaking to act for him, and must do so when he does not himself conduct the business.

In undertakings normally employing not less than twenty persons, the head of the undertaking will be assisted by counsellors chosen from among the staff, who will act in an advisory capacity and form, with the head of the undertaking and under his leadership, the "Trust Council" of the undertaking. It is the duty of the

¹ Published by the International Labor Office, Geneva

Council to promote mutual trust within the works community and to discuss any measures for the improvement of work, the establishment and maintenance of general conditions of employment, and in particular of rules of employment, the maintenance and improvement of safety conditions in the undertaking, the promotion among all members of the undertaking of a spirit of solidarity both among themselves and with the undertaking, and welfare of all members of the community. The Council must also try to settle all disputes arising within the undertaking and must be consulted prior to the infliction of any fines provided for in the rules of employment. The Council may delegate particular duties to its individual members . . .

LABOUR TRUSTEES

A Labour Trustee will be appointed for every large industrial area. It will be the duty of this officer to promote the maintenance of industrial peace .

SOCIAL HONOUR COURT

Each member of a works community is responsible for the conscientious performance of the duties entailed by his position in the community. His conduct must be such as to deserve the consideration attaching to his position, and in particular he must be constantly mindful of his duty to devote his energies wholeheartedly to the services of the undertaking and to subordinate himself to the general good.

Any person who flagrantly disregards the social duties arising out of his membership of a works community will be charged before an Honour Court with offending against social honour. These duties will be deemed to have been disregarded by the following persons:

- 1) Industrialists, heads of undertakings or other persons in supervisory positions who maliciously abuse their authority in the undertaking to exploit the labour of the employees or offend against their honour,
- 2) Employees who endanger industrial peace in the undertaking by maliciously fostering discontent among their fellows, and in particular those who as members of the Trust Council deliberately exercise unjustifiable interference in the management or continually and maliciously try to undermine the corporate spirit of the undertaking;
- 3) Members of the works community who repeatedly address

frivolous and baseless complaints and appeals to the Labour Trustee or who persistently contravene his written instructions,

4) Members of the Trust Council guilty of the unauthorised publication of confidential information concerning industrial or business secrets obtained in performance of their duties and the confidential nature of which they were informed.

Public servants and soldiers are exempted from the jurisdiction of the Honour Courts

139 THE NATIONAL HEALTH PROGRAM

On May 20, 1937, Dr Frick, Reich Minister for the Interior, spoke at the annual conference of the Scientific Society of German Doctors in the Public Health Office and outlined the measures for the improvement of national health which the Nazi government had undertaken. Extracts from his speech follow. The sterilization policy described has, of course, been one of the controversial issues between the Nazi leaders and the Catholic Church.¹

The first step was taken against the unchecked increase of hereditarily diseased families amongst our people with the issuing of the Law for the Protection of Hereditary Health (*Gesetz zur Verhütung erbkranken Nachwuchses*). The production of proof and decisions are left entirely to the Hereditary Courts and Supreme Courts. The law must be carried through with a fitting sense of responsibility, so that only those be sterilised who otherwise might have endangered the well-being of the community at large.

The German Law has therefore assigned the final decision upon the question of sterilisation to independent courts, and every person concerned is granted the opportunity of appealing to the Hereditary Health Supreme Court against the decision of the Hereditary Court. In order to attain a uniform conception in case of doubt throughout the German Reich, and in order that the experiences won in the meantime may be profited from, proposals are pending for the erection of a Reich Hereditary Health Court.

If this law represents a negative measure in health policy, the Marriage Health Law (*Ehegesundheitsgesetz*) should serve to rein-

¹ *News in Brief*, June 5, 1937

force the sense of responsibility in every individual towards guaranteeing the hereditary health and the importance of race in marriage. Marriage prohibitions issued in the Marriage Health Law are intended to prevent only those marriages which every reasonable person would avoid . . .

Questions of heredity and race were the most urgent when national socialism took over power questions of public health were not, however, forgotten for that reason! Thus we have introduced that fundamental Law for the Unification of Health Policy (*Gesetz über die Vereinheitlichung des Gesundheitswesens*) to the Administration of Health Offices, which entered into force on April 1, 1935. It created a uniform administrative apparatus for the whole Reich in the form of the Health Offices.

In the two years following the introduction of that law amazing achievements have been accomplished. Seven hundred and forty-five health offices, 655 State and 90 Communal offices, were erected in the Reich. A net-work of welfare and advisory bureaux have [sic] been spread over the Reich, and the health offices turned their attention immediately to their practical tasks.

In matters of protection of health and tending sickness, the cultivation of health in schools is of first importance. Seven and a half million children were under the direct superintendence of the Health Offices in 1935.

Second place is taken by tuberculosis welfare. Work was carried out in this direction in 1,817 medically conducted welfare centres by 4,471 public health nurses and welfare sisters in 1935. One million three hundred and sixty-one thousand persons were tended by these tuberculosis welfare centres, for whom 1,212,000 medical examinations were made, 1,068,000 Röntgen photographs were taken and 605,000 other examinations and researches tried. In 125,000 cases hospitals or sanatoria were prescribed, and in 92,000 cases medical attention.

Apart from these medical and welfare measures, teaching and enlightenment on the character of the sickness play a considerable part in the successful struggle against tuberculosis, which in 1935 claimed a death roll of 7 in every 10,000 before the war. Infant welfare has covered more than two-thirds of the total number of infants, i.e., 800,000. Thanks to the excellent co-operation between the welfare offices and the National Socialist centres, success is not lacking in this work and infant mortality has considerably declined.

In the other spheres of health protection and sick welfare the Public Health Offices and their advisory centres have accomplished considerable achievements. A total of a further $1\frac{1}{4}$ million citizens have been tended and examined in the children's welfare, maternity welfare, in welfare centres for venereal diseases and in all other welfare centres.

140 FOREIGN POLICIES

Both before and after their rise to power the National Socialist leaders have stressed the importance of improving Germany's international position. One of their strongest appeals for popular support has been their promise to redress the humiliation suffered from the German defeat in the World War, and from the restrictions placed upon the country by the Treaty of Versailles. Soon after he became chancellor, Hitler began his defiance of the Allied Powers and of the treaty system by which Germany was bound. The placidity of world affairs was upset by one thunderbolt after another from the German Foreign office, each leading to a new diplomatic victory for the Nazis. The following achievements are outstanding:

- 1933—Germany withdrew from the League of Nations and the Disarmament Conference
- 1935—Conscription ordered, and the armament provisions of the Treaty of Versailles denounced
- 1936—The Rhineland reoccupied and control of German rivers seized, contrary to Treaty of Versailles
- 1937—Treaty of Versailles declared no longer binding on Germany
- 1938—The annexation of Austria and the Sudeten territory of Czechoslovakia accomplished.
- 1939—The annexation of Memel and the establishment of a protectorate over Czecho-Slovakia
- 1939—The conquest of Poland.

The selections below give a brief account of some of these events as well as an explanation of German feelings and points of view.

A. THE BACKGROUND OF NAZI FOREIGN POLICY

(Stephen H. Roberts, *The House That Hitler Built*, 1938, pp. 293-95) ¹

Hitler's general foreign policy is based on a few general assumptions—that every fetter of the Treaty of Versailles must be struck off, that Germany must expand from her present cramped frontiers, that “the lost Germans” constitute a sacred cause for which to fight, and that the Germans are a people of destiny in a decadent world. To these are added a belief in striking resounding blows and a conviction that everything goes to the man who has the greatest force at his command and threatens to use it. “Necessity knows no law,” Bethmann-Hollweg once said, Hitler believes entirely in this point of view. It follows from this that the validity of treaties is not final and unquestioned, considerations of place and time may alter everything. Any agreements that have become unpleasant may be repudiated by unilateral action when the time is ripe, and if the bluff is not called, the gain is a double one, for in addition to freedom from the repudiated obligations must be added the internal propaganda value of the victory.

A corollary is that, under the personal rule of a dictator, the older system of diplomacy goes by the board. The delicate interactions—and, indeed, the protections of traditional diplomacy—are swept aside by amateurs who cannot appreciate the importance of form or the safety offered by tortuous methods. Instead, the dictator will blunder through to an unduly simple conclusion of a complicated problem and announce it by a resounding blow.

There are many groups behind Hitler, each with different ideas about the future of Germany's foreign policy. Probably the most powerful comprises the sheer opportunists—those who believe that Germany must seek her own advantage in any international crisis. Followers of this school refuse to be committed to a long-range policy. They believe that a strong and unscrupulous power can always profit from “the dynamic of events”, and they fear that adhesion to any fixed line of policy would only weaken the Reich. “Profits from all and commitments to none”—that is their policy, and they think that they can interfere in every difficult situation. Sometimes quarreling Powers will be content to offer bribes to

¹ Reprinted by permission of Harper & Brothers, New York

Germany to keep out, sometimes Germany can bluff by bringing about a *fait accompli* and rely on the unwillingness of her adversaries to go to war to right a wrong, sometimes she relies on the divisions between her opponents, and, in the last resort, she can deliver what is in effect an ultimatum. This is the biggest card in the opportunists' pack—the implied threat to go to extremes. The Germans believe that if they become sufficiently strong to be feared they can secure gains which would be out of the question if they were to remain weak. It is a revival of the old policy that the readiness to use force will obviate any necessity of its use in practice.

Goebbels and Goring apparently lead the exponents of this policy, although the former leans strongly to a belief in a central European policy.

The next group behind the scenes comprises the various Imperialists and pan-Germanists. These all want expansion in some form or other. The Easterners, led by Alfred Rosenberg, want to revive Germany's traditional move to the east, through the maze of Baltic states and the inchoate mass of Poland. They are lured on by the fields of the Ukraine and the unknown wealth of Siberia, and they talk of "the European-Asiatic axis."

Against them the Southerners wish to dabble in the muddle of central European and Balkan politics. They rely on the crumbling of concerted resistance, once the Czech salient is shattered, and they argue that the agricultural riches and the other raw materials of the Danubian countries would really allow Germany's policy of Autarky to function. Moreover, the vast populations there would provide markets to keep the wheels of the German factories spinning busily. There is no end to the goal of the Southerners. Once they start to move along the central axis of world affairs—the Berlin-Bagdad line—once they revive the old *Drang nach Osten*, the way to the infinite resources of the Orient is theirs, and that way lies world domination.

The final groups of advisers—the group of Joachim von Ribbentrop, Hitler's former ambassador-at-large and later Ambassador to the Court of St. James—wants a policy of co-operation between the countries of western Europe. Anglo-German co-operation as a prelude to Anglo-German-French understanding is their avowed aim, and they turn their backs on the glamorous but destructive dreams of a wider Imperialism.

Nazi policy thus reduces itself to a clash between various schools

of thought, with Hitler—always the supreme empiricist—torn from one to the other

B. THE ANTI-COMMUNIST AGREEMENT SIGNED BY GERMANY AND JAPAN ON NOVEMBER 25, 1936, LATER ADHERED TO BY ITALY (RENDERED INACTIVE BY RUSSO-GERMAN NON-AGGRESSION PACT OF AUGUST, 1939) ¹

The Government of the German Reich and the Imperial Japanese Government;

Recognizing that the aim of the *Communist International*, known as the *Comintern*, is to disintegrate and subdue existing states by all the means at its command,

Convinced that the toleration of interference by the *Communist International* in the internal affairs of the nations not only endangers their internal peace and social well-being, but is also a menace to the peace of the world,

Desirous of co-operating in the defence against Communist subversive activities,

Have agreed as follows.

ARTICLE 1

The High Contracting States agree to inform one another of the activities of the *Communist International*, to consult with one another on the necessary preventive measures, and to carry these through in close collaboration

ARTICLE 2

The High Contracting Parties will jointly invite third states whose internal peace is threatened by the subversive activities of the *Communist International* to adopt defensive measures in the spirit of this agreement or to take part in the present agreement

ARTICLE 3

The German as well as the Japanese text of the agreement is to be deemed the original text. It comes into force on the day of signature and shall remain in force for a period of five years. Before the expiration of this period the High Contracting Parties will come to an understanding over the further method of their co-operation.

¹ *News in Brief*, December 10, 1936, p. 268

SUPPLEMENTARY PROTOCOL TO THE PACT

On the occasion of the signing today of the agreement against the *Communist International*, the undersigned Plenipotentiaries have agreed as follows

- (a) The competent authorities of the two High Contracting States will work in close collaboration in matters concerning the exchange of information over the activity of the *Communist International* as well as investigatory and defensive measures against the *Communist International*
- (b) The competent authorities of the two High Contracting States will within the framework of the existing laws take severe measures against those who at home or abroad are engaged directly or indirectly in the service of the *Communist International* or promote its subversive activities
- (c) In order to facilitate the co-operation of the competent authorities provided in paragraph (a) a permanent committee will be set up. In this committee the further defensive measures necessary for the struggle against the subversive activities of the *Communist International* will be considered and discussed

C THE ANNEXATION OF AUSTRIA

FEDERAL CONSTITUTIONAL LAW ON THE REUNION
OF AUSTRIA WITH THE GERMAN REICH

(March 13, 1938)

On the basis of Article III Paragraph 2 of the Federal Constitutional Law on extraordinary measures within the framework of the Constitution (Federal Laws I No 255/1934) the Federal Government have resolved:

ARTICLE I

Austria is a country of the German Reich

ARTICLE II

On Sunday, April 10, 1938, a free and secret plebiscite of men and women of Austria over 20 years of age is to take place on the reunion with the German Reich

ARTICLE III

In the plebiscite the majority of the votes given will be decisive

ARTICLE IV

The regulations necessary for the carrying out and completion of this Federal Constitutional Law are to be made by decree

ARTICLE V

(1) This Federal Constitutional Law comes into force on the day of its proclamation.

(2) The Federal Government are entrusted with the execution of this Federal Constitutional Law

(signed) SEYSS-INQUART, GLAISE-HORSTENAU, WOLFF, HUEBER,
MENGIN, JURY, REINTHALER, FISCHBÖCK

THE GERMAN REICH LAW

On March 13, Dr Goebbels announced the following measures

*Law on the Reunion of Austria
with the German Reich, March 13, 1938*

The Government of the Reich have resolved on the following law which is proclaimed herewith

ARTICLE I

The Federal Constitutional Law on the reunion of Austria with the German Reich of March 13, 1938, resolved by the Austrian Federal Government, becomes herewith law of the German Reich. It has the following text:

(Here the original text repeats the foregoing Federal Constitutional Law)

ARTICLE II

The law as it exists in Austria at present remains in force until further notice. The introduction of the Reich Law to Austria shall be made by the Führer and Reich Chancellor or by a Reich Minister authorised by him for this purpose.

ARTICLE III

The Reich Minister of the Interior is authorised, with the assistance of the Reich Ministers concerned, to take the necessary legal

and administrative measures for the carrying out and completion of this law

*First Decree on the Introduction of German
Reich Laws into Austria
(March 16, 1938)*

§ 1

1. The Reich Proclamations are also valid for the Land Austria.
2. Reich Laws coming into force after the Law on the Reunion of Austria with the German Reich, March 13, 1938, are also valid for the land Austria, except in cases where it is expressly stated that they do not affect the land Austria

§ 2

After this decree comes into force, the following are to be respected in the land Austria

- 1 The Reich Flag Law, September 15, 1935.
- 2 The Law against the Reconstruction of Parties, July 14, 1933
- 3 The Law for the Preservation of the Unity of Party and State, December 1, 1933, in the form of the Law of July 3, 1934
- 4 The Reich Law concerning Reichsstatthalter, January 30, 1935
- 5 The Measures for the Execution of the Four Year Plan, October 18, 1936
- 6 The Reich Law on the Registration of German Subjects Abroad, February 3, 1938

D THE DEMAND FOR COLONIES

The German people once built up a colonial empire without robbing anyone and without violating any treaty And they did so without any war That colonial empire was taken away from us And the grounds on which it was sought to excuse this act are not tenable

Firstly it was said that the natives did not want to belong to Germany Who asked them if they wished to belong to some other Power? And when were these natives ever asked if they had been contented with the Power that formerly ruled them?

Secondly it is stated that the colonies were not administered properly by the Germans Now Germany had had these colonies only for a few generations Great sacrifices were made in building

them up and they were in a process of development which would by now have led to quite different results from those of 1914. In any case the colonies had been so developed by us that other people considered it worth while to engage in a sanguinary struggle for the purpose of taking them from us.

Thirdly it is said that they are of no real value. If that is the case, then they can be of no value to other states either. Thus it is difficult to see why they keep them.

Moreover, Germany has never demanded colonies for military purposes, but exclusively for economic purposes. It is obvious that in times of general prosperity the value of certain territories may decrease, but it is just as evident that in times of distress such value increases. Today Germany lives in a time of difficult struggle for foodstuffs and raw materials. Sufficient imports are conceivable only if there be a continued and lasting increase in our exports. Therefore it goes without saying that our demand for colonies for our densely populated country will be put forward again and again.¹

Whenever we say today that we have not enough space to live in and that we therefore need colonies, somewhere or other there arises a wiseacre who says to us, "But why do you need colonies? Colonies would not be the slightest use to you. After all you can always pay for what you want." But we know perfectly well that we can pay for what we want, if we have money. If we had not been plundered for fifteen years, then of course we could pay for what we want.

Certain rich people are always saying that riches are a burden, and that people should not desire them lest they be crushed beneath the burden. Does that not then suggest that they should be glad to surrender part of their burden? But still they never want to!

In the same way certain foreign statesmen say that colonies are a burden, but they have no desire to surrender any part of their burden. They declare that colonies are of no value, but under no circumstances are they prepared to return these "worthless" colonies to their rightful owners. In speaking of "rightful owners," I do so of course in an age that is filled with League of Nations ideals of morality and decency. It was in accordance with these ideals that we once became possessed of colonies, but the principles in accordance with which we lost them deserve the sharpest con-

¹ Speech by Adolf Hitler, January 30, 1937.

demnation, even from the standpoint of League of Nations morality¹

141 THE DISAPPEARANCE OF CZECHOSLOVAKIA

The successful absorption of Austria into the Reich in March, 1938, led to an intensification of the German demand for reunion with the German minorities separated from her by the Versailles Treaty. The most notable of these minority groups were those in the Polish Corridor, Memel, the Sudeten territory of Czechoslovakia, and the Free City of Danzig. So insistent was the demand for the return of Sudetenland that it became a firm and widespread belief that Germany would agree to keep peace in Europe only if this territory were handed over to her. This was done by the famous Munich agreement of September, 1938.

The territories of the Sudetenland, however, were of such strategic importance to the economic life and military defenses of Czechoslovakia that their sacrifice to Germany left the former virtually helpless. Likewise it soon became apparent that Germany had no intention of being "appeased" by the annexation of the Sudeten. She aimed at nothing less than the complete disruption of the Czech state. Activities for the accomplishment of that purpose were systematically continued. "Incidents" were fomented within Czech borders which could be used as a basis for propaganda among the German people and for unreasonable diplomatic demands upon the Czech government. German occupation of Prague "for the protection of Germans in Czechoslovakia" took place March 15, 1939. Technically the action took the form of the establishment of a German "protectorate" over the old Czech provinces of Moravia and Bohemia, and the setting up of Slovakia as a nominally independent state but actually subject to German control. The following documents make clear the completeness of the German domination.²

¹ Speech by Adolf Hitler, October 3, 1937.

² *News in Brief*, April 25, 1939, pp. 28 ff.

A PROCLAMATION OF THE REICH PROTECTORATE OF BOHEMIA AND MORAVIA

Bohemia and Moravia have for thousands of years belonged to the *Lebensraum* of the German people. Force and unreason have arbitrarily torn them from their old historical setting. Above all their incorporation in the artificial structure of Czecho-Slovakia created a breeding ground of constant unrest.

Year by year there grew the danger that from this region there might emerge—as already once in the past—a new terrible threat to European peace. For the Czecho-Slovak State and its rulers had failed to organize on a reasonable basis the communal life of the several nationality groups arbitrarily united within it. It had failed therefore to arouse and to preserve the interest of each group in the maintenance of the common State structure. It thus showed its innate incapacity to live and has now crumbled in actual fact.

In this region, which for its own peace and safety as well as for the common weal and the general peace, is of such decisive importance the German Reich cannot tolerate continued disturbances. Sooner or later the Reich, as historically and geographically the Power most interested in that region, would have to bear the heaviest consequences. It is in accordance, therefore, with the principle of self-preservation that the Reich is resolved to intervene decisively, to re-establish the bases of a reasonable Central European order, and to take all measures which in consequence arise. For in its long historical past it has shown itself, through the greatness and the qualities of the German people, as being alone fitted to fulfil these tasks.

Imbued with the sincere wish to serve the interests of the peoples living in this region, to secure the independent existence of the German and the Czech nations, and to further peace and social welfare, I therefore order, in the name of the German Reich, that the future communal life of these peoples be established on the following basis —

ARTICLE I

1) The territories of the former Czecho-Slovak State occupied by the German troops in March, 1939, belong henceforth to the territory of the Great German Reich, and enter under its protection as the "Protectorate of Bohemia and Moravia."

2) In so far as the defence of the Reich demands it, the Fuhrer and Reich Chancellor makes arrangements which diverge from this rule for isolated portions of territory

ARTICLE II

1) The German inhabitants of the Protectorate become German nationals (*Staatsangehorige*) and, in accordance with the Reich Citizenship Law of September 15, 1935, Reich citizens (*Reichsbürger*) The regulations for the protection of German blood and German honour therefore hold valid for them They are subject to German jurisdiction

2) The other inhabitants of Bohemia and Moravia becomes nationals (*Staatsangehorige*) of the Protectorate of Bohemia and Moravia

ARTICLE III

1) The Protectorate of Bohemia and Moravia is autonomous and administers itself

2) It exercises the prerogatives which fall to it within the framework of the Protectorate in accordance with the political, military, and economic importance of the Reich

3) These prerogatives are exercised through its own organs and its own authorities, with its own officials

ARTICLE IV

The Head of the autonomous administration of the Protectorate of Bohemia and Moravia enjoys the protection and the rights of the Head of a State The Head of the Protectorate must have the confidence of the Fuhrer and the Reich Chancellor for the discharge of his office

ARTICLE V

1) As the protector of Reich interests the Fuhrer and Chancellor appoints a "Reich Protector in Bohemia and Moravia" His seat of authority is Prague

2) As the representative of the Fuhrer and Reich Chancellor, and as the delegate of the Reich Government, the Reich Protector has the task of seeing that the lines of policy laid down by the Fuhrer and Reich Chancellor are observed

3) The members of the Government of the Protectorate are

confirmed by the Reich Protector This confirmation can be withdrawn

4) The Reich Protector is authorized to inform himself about all measures taken by the Government of the Protectorate and to give advice He can object to measures which are calculated to injure the Reich, and when delay seems dangerous can himself take measures necessary in the common interest

5) The promulgation of laws, decrees, and other orders, as well as the execution of administrative measures and judicial decisions, is to be stopped when the Reich Protector objects to them

ARTICLE VI

1) The foreign affairs of the Protectorate, and in particular the protection of State subjects abroad, are managed by the Reich The Reich will direct foreign affairs in such a way as to consort with the general interest

2) The Protectorate is to have a representative accredited to the Reich Government with the official title of "Minister" (Gesandte)

ARTICLE VII

1) The Reich provides for the military defence of the Protectorate

2) In carrying out this protection the Reich keeps garrisons and military establishments in the Protectorate

3) For the maintenance of internal security and order the Protectorate can set up its own bodies Their organization, strength, number, and armaments are determined by the Reich Government

ARTICLE VIII

The Reich takes direct charge of communications, as well as of the post and telephone system

ARTICLE IX

The Protectorate belongs to the Customs territory of the Reich and is subject to the Reich Customs authority

ARTICLE X

1) Until further notice the crown will be legal tender along with the mark

2) The Reich Government fixes the ratio of each money to the other

ARTICLE XI

- 1) In so far as the common interest demands it, the Reich can promulgate orders applicable to the Protectorate
- 2) In so far as there is a common need for it the Reich can take administrative branches into its own administration and set up the requisite Reich authorities
- 3) The Reich Government can take measures necessary for the maintenance of law and order

ARTICLE XII

The law now in force in Bohemia and Moravia remains valid except in so far as it contradicts the spirit of the protection undertaken by the German Reich

ARTICLE XIII

The Reich Minister of the Interior promulgates, in agreement with the other competent Ministers, the legal and administrative rules necessary for the execution and amplification of this proclamation

Prague, March 16, 1939

The Fuhrer and Chancellor of the Reich,
(signed) ADOLF HITLER

The Reich Minister for the Interior,
(signed) DR FRICK

The Reich Minister for Foreign Affairs,
(signed) VON RIBBENTROP

*The Reich Minister and Chief
of the Reich Chancellery,*
(signed) DR LAMMERS

B TREATY BETWEEN SLOVAKIA AND THE REICH ¹

The Slovak Prime Minister, Dr Tiso, sent the following telegramme to the Fuhrer on March 16

"With great trust in you, the Fuhrer and Chancellor of the Great German Reich, the Slovak State places itself under your protection

"The Slovak State begs you to undertake that protection
(signed) Tiso"

¹ News in Brief, April 25, 1939, p 36

The *Fuhrer* sent the following reply
"I acknowledge the receipt of your yesterday's telegramme and hereby take over the protection of the Slovak State
(signed) ADOLF HITLER "

STATE TREATY BETWEEN SLOVAKIA AND THE REICH

The German Government
and
The Slovak Government

are agreed, after the Slovak Government submitted itself to the protection of the Reich, to regulate all consequences ensuing from this with a treaty For that purpose the undersigned plenipotentiaries of the two governments have agreed upon the following decrees

ARTICLE 1

The German Reich takes upon itself the protection of the political independence of the Slovak State and the integrity of its territory.

ARTICLE 2

To carry out the protection assumed by the German Reich, the German Armed Forces have, at any time, the right to set up military stations and to have them occupied to a strength held necessary by them in a zone west of the frontier of the Slovak State and east of the general line, the eastern border of the Carpathians the eastern border of the White Carpathians and the east border of the Javornik Mountains.

The Slovak Government will arrange that the ground and territory requisite for those stations will be placed at the disposal of the German Armed Forces Moreover, the Slovak Government will agree to a regulation which is necessary for the duty-free supplies for the German troops and for the duty-free deliveries from the Reich necessary for the military stations

In the zone described in paragraph 1 the military sovereign rights of the German Armed Forces will be exercised

Persons of German citizenship who are concerned with the establishment of military stations in the designated zone on the basis of a private treaty-relationship, are insofar subordinate to German jurisdiction

ARTICLE 3

The Slovak Government will organise its own military forces in close co-operation with the German Armed Forces.

ARTICLE 4

In accordance with the protective relations agreed upon the Slovak Government will conduct its foreign policy in constant close co-operation with the German Government

This Treaty will come into force immediately upon being signed and is valid for a period of 25 years Both Governments will come to an agreement upon an extension of the treaty in due time before the cessation of its validity.

The plenipotentiaries on both sides have signed the treaty in two copies of the documents.

Vienna, March 18, 1939.

Berlin, March 23, 1939

For the German Government

(signed) VON RIBBENTROP

For the Slovak Government

(signed) DR. TISO,

(signed) DR. TUKA,

(signed) DR. DURCANSKY

142. THE POLISH CORRIDOR AND DANZIG

In 1934, shortly after the Nazi regime had assumed power, Germany entered into a ten-year non-aggression pact with Poland. The developments of 1938 and 1939, by which Germany regained not only territories taken from her by the Treaty of Versailles, but non-German lands as well, created apprehension in Poland as to the sincerity of Germany's adherence to the nonaggression pact and as to her intentions regarding the Polish Corridor and the Free City of Danzig. Poland held that the freedom of these territories from German control was absolutely essential to her own independence, and entered into a mutual assistance alliance with Great Britain designed to halt any further aggression on the part of Germany.

The signing of this pact was the occasion of Hitler's denunciation, in May, 1939, of the German-Polish agreement of 1934. Tension over the fate of Danzig and of the Polish Corridor increased as the Germans made specific demands for the annexation of Danzig and for the right to build military roads across the Corridor. The importance of this territory to German foreign policy and its bearing on the war beginning in 1939 are brought out in the following discussion (S. Wolf, "Danzig, Poland and Germany," *The Contemporary Review*, CLV, June, 1939, 674-80) ¹

Danzig was once known as Gdansk. It is still so called in the Polish language, the language of a country whose fate, for good or ill, is linked with it. It was once a purely Polish city, and was only Germanised in the course of centuries through the operation of the German "Drang nach Osten." To-day Danzig, though German as regards the overwhelming majority of its population, is the great port that (apart from Gdynia) is available to Poland, Poland's gateway to the Baltic, Poland's lung by which she breathes.

The present status of Danzig must appear rather complicated to anyone not familiar with the complexities of Eastern European conditions. The Free City has its own currency—the Danzig Gulden—but is linked with Poland in a Customs Union. It has its own government, the Senate, which is elected by a Parliament of seventy-two members, the President of the Senate being the supreme head of the government. There is also a League High Commissioner, though his power to-day is only of a theoretical nature, the League itself having been reduced to a shadow of its former self.

But that is not all. There is also a representative of Polish interests in Danzig who during the last few years has collaborated, without friction on the whole, with the Senate. And finally, Poland is entitled to maintain a military detachment in the Bay of Danzig. With a single insignificant exception, this circumstance has never been the cause of conflict. The diplomatic representation of Danzig abroad is in the hands of Poland, but in all internal matters Danzig enjoys complete freedom of action.

The Danzig question has, characteristically enough, come to the

¹ Reprinted by permission of *The Contemporary Review*, London.

forefront after the success of German aggression in Central Europe. It can be viewed through three different pairs of spectacles—Polish, German and Danziger. As far as the Polish attitude is concerned, history, as well as economic exigency and economic law, speaks clearly enough. One unalterable geographical factor is represented by the fact that Danzig is situated at the mouth of the Vistula, a river that is 100 per cent. Polish. There is hardly another great river in Europe, apart from Russia, which is so completely and intimately linked with the history and the life of the country as the Vistula is linked with the history, government and life of the Polish nation. The attitude that it would be possible to remove the mouth of the Vistula from the sphere of Polish influence, could only serve one ultimate purpose—to sever a vital artery in the body of Poland and thereby slowly but surely ruin the country as such.

A country of 35,000,000 inhabitants wedged in between two great and mighty powers cannot survive without access to the sea. And it is hardly likely that Poland could retain for long her present path to the sea—the Polish Corridor or, more correctly, the Province of Pomorze—if Danzig were embodied in the German Reich.

That, briefly, is the Polish attitude. From the point of view of the Free City as such, an examination of the Danzig question points to the conclusion that the interest of the population lies in the preservation of the status quo, and would incur serious loss through an Anschluss. Danzig to-day enjoys a privileged position which offers very positive advantages to it. A considerable part of Poland's exports pass through the Port of Danzig. An Anschluss would lead to a fundamental change in this connection, and Danzig would sink to a second or third class German port. It would be incapable of competing not only with Hamburg, but also with Bremen or Stettin. The Danzigers may be good Nazis, but they are certainly good business men and arithmeticians. If propaganda and political pressure, which to-day dominates all Germans wherever they live, were eliminated, and the Danzigers dared to open their hearts, they would have to admit that the present situation is far more desirable to them than incorporation in the Reich. Indeed, it is an open secret, despite the efforts of the Nazi leaders to deny it, that the population of Danzig take that attitude. That portion of it which has adopted the Nazi gospel are quite content

that Danzig should be ruled according to Nazi principles In the case of Austria, the Sudetenland and Memel, the Reich could support its demand for an *Anschluss* by claiming that "Germans are living under foreign domination," for although Prague and Kaunas granted a large measure of freedom to their German minorities, they were nevertheless foreign governments, while Schuschnigg's government was regarded as "foreign" owing to their refusal of Nazi principles, but in the case of Danzig there is not a shadow of justification to raise this argument Danzig is not only a Free City in name, it is really free Moreover, it is essentially a self-governing state, though subject to certain international obligations It may be unfortunate for Nazi propaganda, but not even the Nazis, who are otherwise so inventive, are able to tell the world that the Danzigers are not allowed to live a full German life

Finally, there is the German point of view Characteristically enough, the Nazi Government attached no value to Danzig for years As little was said by the Germans about Danzig as about the Southern Tyrol, whose German inhabitants are certainly not free, but about whom Germany preserves a dead silence, in order not to anger Italy The silence about Danzig was due to a desire on the part of Germany not to upset her good relations with Poland, as expressed in the Non-Aggression Pact of 1934 On the rare occasions when Danzig was mentioned, the Nazis swept it aside as a secondary problem, saying that Danzig was only a provincial city It was only recently that the question of Danzig was brought to the forefront, i.e., when other German aspirations had been realised The Pact was a piece of opportunism on the part of Germany, to which she adhered so long as it suited her purpose The fact that the Pact was unilaterally abrogated, without any valid reason, by no means proves that Danzig has suddenly become a vital problem to the Reich What it does prove is that it is now the turn of Danzig to experience the force of the apparatus of aggression The economic importance of Danzig to Germany is more than doubtful If, after the *Anschluss*, it loses its Polish customer, it must suffer defeat in the competition with other German ports, and would then prove to be a burden rather than an asset, like Austria. Nor can it be a question of Nazi prestige, since, as we have seen, Danzig is free, German and Nazi. We could go further and say that it would be possible to believe a peaceful and static

Germany, but not the "dynamic" Germany of to-day, that she has no other object than to unite Danzig with the Reich. But as to the Third Reich, it is quite certain that it would regard the *Anschluss* of Danzig not as an end in itself, but merely as a first step towards further aggression. Once the heavy batteries of the German Army are erected in Danzig, once its peaceful port is turned into a naval port—and who doubts that it would be so, in view of the Memel example?—the days of the Polish *Pomorze* would be numbered, and this old Polish province would be crushed between Germany and East Prussia. And once the Third Reich cut off Poland's access to the sea, Warsaw would soon come under the "protection" of Hitler and Poland would become a vassal of Germany. It is clear that Danzig to Germany is an apparently harmless means for the attainment of an imperialistic goal. It is to be wondered at that while Poland is prepared to negotiate on the question of Danzig, she will only agree to do so if the negotiations are to be negotiations and do not involve an armed threat, and that she regards the problem as vital to her very existence.

PART IV

ITALY

CHAPTER XXIII

THE FASCIST REGIME

143. THE MARCH ON ROME

DURING the first year of the World War, when Italy was still neutral, many *Fasci Interventisti* were formed advocating entrance into the war on the side of England and France. Even after Italy declared war, these groups continued to exist, reorganizing in 1918 with the new name *Fasci di Combattimento*. Benito Mussolini became their recognized leader.

After the World War Italy was torn by international dissensions. In the midst of economic turmoil, the Socialist party became more radical than ever, gained new followers and won considerable strength in the Chamber of Deputies. The failure of Italy in the peace settlement to realize her aspirations for expansion contributed further to the restlessness of the people. The inability of the government to maintain domestic order in the face of these irritating conditions provided Mussolini's Fascists an opportunity to gain new supporters. The Fascist organization became a political party and sought power. In 1922, the famous March on Rome occurred, resulting in the establishment of a Fascist government. The dictatorship entrenched itself during the years which followed and applied itself to the task of reconstructing Italy. (Henry

R. Spencer, *Government and Politics of Italy*, 1932, pp. 95-99)¹

In the last week of October (1922) came the Fascists' "March on Rome." To this day it remains somewhat of a mystery why it was made at just this time. It has been suggested, and is a fair supposition, that the hand of Mussolini and his general staff was forced by the events planned for the fourth anniversary of the victory and the Armistice, November 4. There was a growing restiveness on the part of capital, as it saw its defenders, Fascism, filling up its ranks so rapidly with laborites and ex-Socialists, whose effect on Fascist programs (still always vague) might be cause for alarm.

But the Fascists were too quick. They held a congress at Naples on October 24, where some 50,000 Fascists were reviewed by Mussolini amid signs of popular favor, though in a part of the country hitherto little touched by Fascist propaganda or activities—or Socialist either, for that matter. Bianchi, political secretary of the Fascist party, issued an ultimatum to the government, demanding dissolution of Parliament and a new election. He declared "The present Chamber no longer represents the country, and any cabinet formed by it would be illegal. It will be the duty of the Fascists to restore its legality by themselves seizing the government." That is to say, Fascism had now ceased to pretend to be a party collaborating in the constitutional government of the state, it was now ready to use violence, to make its revolution.

Prime Minister Facta resigned on October 27, but on the king's suggestion made the usual effort to reconstitute a ministry and offered portfolios to the Fascist party. Mussolini made an impossible and in a parliamentary sense absurd demand for the five most important portfolios: Foreign Affairs, War, Marine, Labor, and Public Works. Then followed the usual several days of consultation with presidents of the Chambers and ex-premiers with the resulting vain attempts to form a ministry. Meanwhile Mussolini withdrew to Milan, his home, but incidentally took the prudent step of coming to an accord with D'Annunzio. All over Italy, under direction of a *Quadrumvirate* designated by Mussolini, the Fascist local groups seized control of the provincial and municipal gov-

¹ Reprinted by permission of the author and of The World Book Company. Copyright 1932 by World Book Company, Yonkers, New York.

ernments, so far as that had not already been accomplished. This was obviously rebellion against legal authority, and Facta, still Minister of Interior for current business until the crisis should be resolved by appointment of a new ministry, presented to the king a decree for declaring martial law. Here at last was the crucial test. It was widely rumored that there was a Fascist army of 40,000 men, well organized and equipped, converging on Rome. But, far worse, it was known that the regular army and the *Carabinieri* were infected with Fascism, from General Cadorna down. They had been permitted by Premier Bonomi to enroll in the *Fasci*, though this involved a serious division of their loyalty in case of a crisis like the present. To sign the decree for martial law would certainly involve (if the Fascists were not preposterously bluffing) a civil war, no longer between partly disloyal Socialists and loyal Fascists, but between loyal Fascists and the loyal army, between conflicting motives in the consciences of some of the best men in the army, between loyalty to a royal government which was apparently suffering paralysis, and loyalty to what many considered a promising, if unconstitutional, effort to cure that paralysis. The contest took place in the breast of the First Soldier of the land, and was there settled for all. The king went counter to traditional responsibility of refusing to sign his premier's martial law decree. Not a shot was fired: the old regime fell without resisting. Resistance was probably useless, considering the attitude of the army. The ministry, in any case, was prevented from summoning the army to defend it against this new force which was resolved to govern, regardless of the Constitution. The unorganized mass of the people, it was conjectured, would simply acquiesce and take what came. To save Italy from civil war, to win constitutional vigor for Italy from this new national force, the king departed from the Constitution as it had been understood by his royal predecessors under the guidance of the founder, Cavour.

The king sent for Mussolini to form a ministry. In place of the usual course of negotiations lasting weeks, Mussolini had a list ready in six hours. Arriving in Rome October 30, he presented himself to the king, declared himself his Majesty's humble servant, apologized for his black shirt (as having just come from active campaigning), and immediately sent out to buy the conventional silk hat and formal dress, which he had not hitherto possessed. Now that by *coup d'état* the powers of the Constitution had been seized,

they should as far as possible be vaunted and exploited under constitutional forms, with all the consequent prestige and claim to the obedience of law-abiding citizens

144 THE PHILOSOPHY OF FASCISM

Fascism as a political theory followed rather than preceded Fascism as a political regime. Occupied at first with the task of establishing political control, the leaders of the movement gave scant attention to any theoretical justification for their activities. Gradually, however, there has emerged a clearer understanding of the philosophical implications of Fascist policy and organization, although the movement remains to this day primarily a regime of action. While students of political theory cannot agree that Fascist theories are as original as its leaders claim, they recognize that its doctrines possess some elements which distinguish them from all others. Since the Fascist movement has been more the product of the thought and energy of Mussolini than of any other man, the following article on the doctrine of Fascism written by him for the *Encyclopedia Italiana* must be regarded as peculiarly authoritative. (Benito Mussolini, "The Doctrine of Fascism," translated by Jane Soames, *The Living Age*, No. 345, pp. 235-44, November, 1933.)¹

Fascism was not the nursling of a doctrine worked out beforehand with detailed elaboration; it was born of the need for action and was from the beginning practical rather than theoretical, it was not merely another political party but, even in the first two years, stood in opposition to all political parties as such and was itself a living movement.

The name that I then gave to the organization fixed its character. And yet, if one were to reread, in the now dusty columns of that date, the report of the meeting in which the *Fasci Italiani di combattimento* were constituted, one would find there no ordered expression of doctrine, but a series of aphorisms, anticipations, and aspirations which, when refined by time from the original ore, were destined after some years to develop into an ordered series of doc-

¹ Reprinted by permission of *The Living Age*, New York

trinal concepts, forming the Fascist political doctrine—different from all others either of the past or the present day

The years that preceded the March to Rome were years of great difficulty, during which the necessity for action did not permit of research or any complete elaboration of doctrine. The battle had to be fought in the towns and villages. There was much discussion, but—what was more important and more sacred—men died. They knew how to die. Doctrine, beautifully defined and carefully elucidated, with headlines and paragraphs, might be lacking, but here was, to take its place, something more decisive—faith.

Even so, anyone who can recall the events of the time through the aid of books, articles, votes of congresses, and speeches of great and minor importance, anyone who knows how to research and weigh evidence, will find that the fundamentals of doctrine were cast during the years of conflict. It was precisely in those years that Fascist thought armed itself, was refined, and began the great task of organization. The problem of the relation between the individual citizen and the state, the allied problems of authority and liberty, political and social problems as well as those specifically national—a solution was being sought for all these while at the same time the struggle against Liberalism, Democracy, Socialism and the Masonic bodies was being carried on, contemporaneously with the “punitive expedition.”

But, since there was inevitably some lack of system, the adversaries of Fascism have disingenuously denied that it had any capacity to produce a doctrine of its own, though that doctrine was growing and taking shape under their very eyes, even though tumultuously, first, as happens to all ideas in their beginnings, in the aspect of a violent and dogmatic negation, and then in the aspect of positive construction that found its realization in the laws and institutions of the régime as enacted successively in the years 1926, 1927, and 1928.

Fascism is now a completely individual thing, not only as a régime but as a doctrine. And this means that to-day Fascism, exercising its critical sense upon itself and upon others, has formed its own distinct and peculiar point of view, to which it can refer and upon which, therefore, it can act in the face of all problems, practical or intellectual, which confront the world.

And above all, Fascism, the more it considers and observes the future and the development of humanity quite apart from political

considerations of the moment, believes in neither the possibility nor the utility of perpetual peace. It thus repudiates the doctrine of pacifism—born of a renunciation of the struggle and an act of cowardise in the face of sacrifice. War alone brings up to its highest tension all human energy and puts the stamp of nobility upon the peoples who have the courage to meet it. All other trials are substitutes that never really put men into the position where they have to make the great decision—the alternative of life or death. Thus a doctrine that is founded upon this harmful postulate of peace is hostile to Fascism. And thus hostile to the spirit of Fascism, though accepted for what use they can be in dealing with particular political situations, are all the international leagues and societies, which, as history will show, can be scattered to the winds when once strong national feeling is aroused by any motive—sentimental, ideal or practical.

Such a conception of life makes Fascism the complete opposite of that doctrine, the base of so-called scientific and Marxian Socialism, the materialistic conception of history, according to which the history of human civilization can be explained simply through the conflict of interests among the various social groups and by the change and development in the means and instruments of production. That the changes in the economic field—new discoveries of raw materials, new methods of working them, and the inventions of science—have their importance no one can deny, but that these factors are sufficient to explain the history of humanity excluding all others is an absurd delusion. Fascism, now and always, believes in holiness and in heroism, that is to say, in actions influenced by no economic motive, direct or indirect.

And if the economic conception of history be denied, according to which theory men are no more than puppets, carried to and fro by the waves of chance while the real directing forces are quite out of their control, it follows that the existence of an unchangeable and unchanging class war is also denied—the natural progeny of the economic conception of history. And above all Fascism denies that class war can be the preponderant force in the transformation of society.

These two fundamental concepts of Socialism being thus refuted, nothing is left of it but the sentimental aspiration—as old as humanity itself—toward a social convention in which the sorrows and sufferings of the humblest shall be alleviated. But here again

Fascism repudiates the conception of "economic" happiness, to be realized by Socialism and, as it were, at a given moment in economic evolution to assure to everyone the maximum of well being. Fascism denies the materialist conception of happiness as a possibility, and abandons it to its inventors, the economists of the first half of the nineteenth century, that is to say, Fascism denies the validity of the equation, well-being equals happiness, which would reduce men to the level of animals, caring for one thing only—to be fat and well fed—and would thus degrade humanity to a purely physical existence.

After Socialism, Fascism combats the whole complex system of democratic ideology, and repudiates it, whether in its theoretical premises or in its practical application. Fascism denies that the majority, by the simple fact that it is a majority, can direct human society, it denies that numbers alone can govern by means of a periodical consultation, and it affirms the immutable, beneficial, and fruitful inequality of mankind, which can never be permanently leveled through the mere operation of a mechanical process such as universal suffrage. The democratic régime may be defined as from time to time giving the people the illusion of sovereignty, while the real, effective sovereignty lies in the hands of other, concealed and irresponsible forces. Democracy is a régime nominally without a king, but it is ruled by many kings, more absolute, tyrannical, and ruinous than one sole king, even though a tyrant.

Fascism has taken up an attitude of complete opposition to the doctrines of Liberalism, both in the political field and in the field of economics.

The era of Liberalism, after having accumulated an infinity of Gordian knots, tried to untie them in the slaughter of the World War—and never has any religion demanded of its votaries such a monstrous sacrifice. Perhaps the Liberal gods were athirst for blood? But now, to-day, the Liberal faith must shut the doors of its deserted temples, deserted because the peoples of the world realize that its worship—agnostic in the field of economics and indifferent in the field of politics and morals—will lead, as it has already led, to certain ruin. In addition to this, let it be pointed out that all the political hopes of the present day are anti-Liberal, and it is therefore supremely ridiculous to try to classify this sole creed as outside the judgment of history, as though history were a hunt-

ing ground reserved for the professors of Liberalism alone—as though Liberalism were the final, unalterable verdict of civilization.

Political doctrines pass, but humanity remains, and it may rather be expected that this will be a century of authority, a century of the left, a century of Fascism, for if the nineteenth century was a century of individualism (Liberalism always signifying individualism) it may be expected that this will be the century of collectivism, and hence the century of the state. It is a perfectly logical deduction that a new doctrine can utilize all the still vital elements of previous doctrines

The foundation of Fascism is the conception of the state, its character, its duty, and its aim. Fascism conceives of the state as an absolute, in comparison with which all individuals or groups are relative, only to be conceived of in their relation to the state. The conception of the Liberal state is not that of a directing force, guiding the play and development, both material and spiritual, of a collective body, but merely that of a force limited to the function of recording results. On the other hand, the Fascist state is itself conscious, and has itself a will and a personality. Thus it may be called the "ethic" state. In 1929, at the first five-yearly assembly of the Fascist régime, I said —

"For us Fascists, the state is not merely a guardian preoccupied solely with the duty of assuring the personal safety of the citizens, nor is it an organization with purely material aims, such as to guarantee a certain level of well-being and peaceful conditions of life, for a mere council of administration would be sufficient to realize such objects. Nor is it a purely political creation, divorced from all contact with the complex material reality that makes up the life of the individual and the life of the people as a whole.

"The state, as conceived of and as created by Fascism, is a spiritual and moral fact in itself, since its political, juridical, and economic organization of the nation is a concrete thing and such an organization must be in its origins and development a manifestation of the spirit. The state is the guarantor of security both internal and external, but it is also the custodian and transmitter of the spirit of the people, as it has grown up through the centuries in language, in customs, and in faith. And the state is not only a living reality of the present, it is also linked with the past and above all with the future, and thus transcending the brief limits of individual life, it represents the immanent spirit of the nation. The

forms in which states express themselves may change, but the necessity for such forms is eternal.

"It is the state that educates its citizens in civic virtue, gives them a consciousness of their mission, and welds them into unity, harmonizing their various interests through justice, and transmitting to future generations the mental conquests of science, of art, of law, and the solidarity of humanity. It leads men from primitive tribal life to that highest expression of human power which is empire, it links up through the centuries the names of those of its members who have died for its existence and in obedience to its laws, it holds up the memory of the leaders who have increased its territory and the geniuses who have illumined it with glory as an example to be followed by future generations. When the conception of the state declines, and disunifying and centrifugal tendencies prevail, whether of individuals or of particular groups, the nations where such phenomena appear are in their decline."

From 1929 until to-day evolution, both political and economic, has everywhere gone to prove the validity of these doctrinal premises. Of such gigantic importance is the state. It is the force that alone can provide a solution to the dramatic contradictions of capitalism, and that state of affairs which we call the crisis can be dealt with only by the state, as between other states.

A state that reposes upon the support of millions of individuals who recognize its authority, are continually conscious of its power, and are ready at once to serve it is not the old tyrannical state of medieval lords nor has it anything in common with the absolute governments either before or after 1789. The individual in the Fascist state is not annulled but rather multiplied, just in the same way that a soldier in a regiment is not diminished but rather increased by the number of his comrades. The Fascist state organizes the nation, but leaves a sufficient margin of liberty to the individual, the latter is deprived of all useless and possibly harmful freedom, but retains what is essential, the deciding power in this question cannot be the individual, but the state alone.

If every age has its own characteristic doctrine, there are a thousand signs that point to Fascism as the characteristic doctrine of our time. For—if doctrine must be a living thing—this is proved by the fact that Fascism has created a living faith, and that this faith is very powerful in the minds of men is demonstrated by those who have suffered and died for it.

Fascism has henceforth in the world of universality of all those doctrines which, in realizing themselves, have represented a stage in the history of the human spirit.

145 THE PERSONALITY OF MUSSOLINI

Mussolini was born July 29, 1883, at Dovia, Italy. His father, a blacksmith, was a revolutionist and an atheist, while his mother was a deeply religious person. Chiefly for political reasons, Mussolini left Italy and went to Switzerland, where he studied in the universities at Lausanne and Geneva. In Switzerland he tried to organize labor unions and promoted strikes, with the result that he was finally expelled from the country. He became the editor of *Popolo*, a socialist paper in Austria, but was obliged to leave that country because of his writings. He continued his support of socialism as a newspaper editor in Italy until the beginning of the World War, when he was thrown out of the Socialist party because he believed that Italy should take part in the war. He then founded the newspaper *Il Popolo d'Italia*, but soon after was arrested because of his advocacy of revolution. When Italy declared war, Mussolini enlisted as a private and was wounded in 1917. On March 23, 1919, he founded his first *Fasci di Combattimento*, or fighting units. Their program included the establishment of a republic, universal suffrage, disarmament, abolition of compulsory military service, and the transference of industry to syndicates of technicians and workers. He was defeated in the election of 1919, but in 1921 he and a number of other Fascists became members of the Chamber of Deputies. The following year the Fascist March on Rome occurred, ending in the establishment of the dictatorship.

In view of Mussolini's domination of the Fascist movement, the following analysis of his character and ideas is given (Herman Finer, *Mussolini's Italy*, pp. 292-99) ¹

¹ Reprinted by permission of the author and of Victor Gollancz, Ltd., London.

Mussolini is more controlled, more disposed to reticence, less expansive than the average Italian. He is impenious and detached. He gesticulates less. He has a solid crag-like passivity when listening, and even when speaking, that is particularly imposing in a land where all are volatile and throbbing. He gives the impression that confidence will be well placed in him, and power turned to good uses.

It is this un-Italian steadiness which marks him off from the rest, he is un-ordinary, and that already seems to the average man an infallible sign of superiority. People are not able to be much different from what they are, even if they try, but they are the more attracted by those who differ from them in the traits they envy.

He is moved by an extraordinary combination of self-confidence, decision and will. To the outer world at least, whatever private qualms and anxiety he may feel, Mussolini is illimitably certain of the rightness of his own ultimate judgment. No qualification is admitted when all the discussion he initiated has ceased, and once this is settled, action follows simply and inflexibly. He is certain of his star, certain that he cannot be assassinated until his work is accomplished, certain that Italy needs him, certain that his institutions are wholesome for Italy and the world, certain that he cannot fail. "It is clear that every great movement must have a representative man who suffers all the passion and carries all the flame of that movement." "Enthusiasm is a primitive and fundamental force of the human spirit. Nothing great can be accomplished except by those who are in a state of amorous passion, in a state of religious mysticism. But that is not enough. Together with sentiment, there are the reasoning forces of the brain." Yet the indomitability of his will is not a blind stubbornness. He is tractable and reasonable, and follows the facts to reach a decision, and then follows them onwards from his decision, ready to modify the decisions if the results are not what he willed.

Mussolini also possesses the will to overcome consequential obstacles. For those who lead, it is not enough to wish, to will is more. To will is to accept the obligations and sacrifices and to render all the efforts imposed by the commands of the will. Mussolini's passionate, intense, will has also the propensity that it challenges a declaration of complete friendship or complete hostility, there is no room left for, and he will not tolerate, lukewarm detachment. He imposes a choice between acceptance or negation,

and so knows exactly where he is, the conditional is reduced to its smallest margin, compatible with the ineradicable differences among men, and the impossibility of ruling out mental reservations. These two qualities, self-confidence and intensity of will, exist in him not in any ordinary degree, or even in such degree as is found in abnormal men. In him they are volcanic, earth-shaking. It is as though a tempest of resentment against the Universe itself were bursting in him. The occasional quotations given must have amply shown this.

Personal contact reveals it clearly and immediately. There he sits like a force of Nature! There are storms of cyclopean violence, and then just as silent, withdrawn, brooding, the patient and confident waiting of Nature on the way to bring forth her creations in due and inevitable season, or, again, the tense flexing of all the muscles and the bracing of the spirit preparatory to a spring at the mark. This intensity of being, prodigious and almost possessed, exerts a most potent influence throughout the country. The impact of his personality on men, women and children far from the vicinity of Mussolini's physical presence is astounding.

Devotion to duty and intense will are allied in Mussolini, as they always must be if they are to be converted into accomplishment, with a power of steady hard work, and the capacity to organise and direct a routine of government which promotes the fullest exploitation of every moment of time. Like Napoleon, but perhaps not so intensely or continuously, he can work an abnormally long day, but it is not in hours only that such work is calculated, but in concentration . . .

The daily labours are herculean: reports for examination and comment, decisions to be declared, Ministers to consult and command, audiences to Italians and foreigners; public functions, frequent visits and speeches to all parts of the country; study and meditation, uncountable problems of personnel to unravel, since he is the almost universal court of appeal even for relatively unimportant disputes between members of the Party. But he is relieved from attendance at Parliamentary sessions as long and arduous as those in democratic countries. This extraordinary laborious life is founded upon the robust vitality and physique of a burly, broad-shouldered, deep-chested, rather short, well-knit athletic person.

To all these characteristics Mussolini unites personal fascination. It is as impossible to define this, or explain its origin, as to explain

why we like or love others, why we are attracted by some who do not care a rap for us or repelled by others whose intentions towards us are eternally kind. But the effects are evident, and well attested by those whose personal relationship with Mussolini has been long and continuous.

His presence is exciting, disturbing, and, finally, commanding. People feel simply that they must obey.

146 THE CONSTITUTIONAL POSITION OF THE FASCIST PARTY

The Fascist party is an hierarchical organization. The local units, known as the *Fasci di Combattimento*, include more than two million members. The Grand Council is the highest deliberative body. Il Duce holds no formal position within the party, but he directs it as its actual leader without being responsible to it.

In one-party states it is customary to give the party a status within the nation's constitutional system. The main objective, of course, is to provide a means of subduing opposition by rendering all other party groups extralegal. The extract below shows the extent to which this has been done in Italy. (H. Arthur Steiner, "The Constitutional Position of the Partito Nazionale Fascista," *American Political Science Review*, XXXI, 1937, 229-32.)¹

Beginning with the March on Rome, three fairly distinct stages in the evolution of the relationship between the state and the party may be noted. In the first period, extending from October 28, 1922, until January 3, 1925, the state appeared to take no official cognizance of the Fascist party.

A second phase opens sharply with the *pronunciamento* of January 3, 1925, and extends to 1929. This may be called the period of transition, during which the party accomplished its *de facto* identification with the state, laying the foundations for the legalized dictatorship, but holding itself officially, if indiscreetly, in the background. Events of this period made foreign observers ask "What after Mussolini?" In December, 1925, the Prime Minister

¹ Reprinted by permission of the author and of the *American Political Science Review*.

became *Capo del Governo* and responsible, parliamentary government was formally abandoned, in January, 1926, the government took for itself sweeping powers to legislate by decree, in April, 1926, the first in the series of syndical-corporative measures was adopted, leading eventually to the corporate state. Concurrently, local popular government was abolished and rigid control over the press established. Only then did the party gradually emerge from the official background. The Law on Public Security of November 6, 1926, did not abolish all forms of political organization, nor did it establish in principle the Fascist party as the sole party; but its provisions were sufficiently broad to enable administrative officers to demolish opposition organizations and to destroy any remaining vestiges of political freedom. In the course of 1928, the Fascist Grand Council assumed the public function of preparing the official electoral list under the electoral reform of May 17, 1928, and by law of December 9, 1928, it was given functions of a constitutional character.

In his historic address of September 14, 1929, Mussolini sounded the keynote of the third phase in the party's evolution. To those who then felt that the party, having accomplished the Revolution, was ready to be dissolved, Mussolini declared that the party was the "capillary organization of the regime", that its "importance was fundamental", that, had there then been no Fascist party, he would have invented it "as the *Partito Nazionale Fascista* now is—numerous, disciplined, ardent, with a rigid, hierarchical structure." The real question, in his view, had to do with formalizing the relationship between the party and the state. "All dualism of authority and hierarchy (as between party and state) is extinguished." To give effect to these principles, the Fascist Grand Council was reorganized by the law of December 14, 1929—a law which for the first time contained principles concerning the organization and internal discipline of the party. The secretary of the party was thereafter to be named by royal decree—that is, by the king—upon recommendation of the *Capo del Governo* (not *Duce*), and was to become an *ex officio* member of various important state organs and to be eligible to participate in the council of ministers. The members of the National Directory and the federal secretaries were to be named by decree of the *Capo*. And then, for the first time, provision was made that the future statutes of the Fascist party be established by royal decree, upon recommendation of the *Capo*,

observing the practices of constitutional legislation, i.e., after consultation with the Fascist Grand Council and the council of ministers. In pursuance of this principle, the party statute was promulgated in the royal decree of December 20, 1929, the present statute is found in the royal decree of November 17, 1932. Addressing the first meeting of the National Corporate Council on April 22, 1930, Mussolini remarked upon the appropriate inclusion in its membership of a representation from the party which, "having made the Revolution, can never be a stranger to the institutions which the Revolution has itself established in every field." Hence, ensuing years found the P N F acquiring more steadily the characteristics of an institution of public law, becoming officially identified with nearly every branch of governmental activity, until, eventually, it could be said that the party had become more than an "institution of public law"—that it had become an "organ of the state." The conferment upon the secretary of the party of the status of "minister" as of January 23, 1937, completed the third phase of the evolutionary process.

CHAPTER XXIV

THE POLITICAL STRUCTURE OF
THE ITALIAN GOVERNMENT

147 MONARCH AND DICTATOR

THE House of Savoy has provided Italy with kings since the unification of the country in 1870, and prior to that time it had been the reigning house in Piedmont. The present king, Victor Emmanuel III, has occupied the throne since 1900. His personal qualities have made him one of the most popular kings of modern European history. With great tact and wisdom he has adjusted himself to the new conditions brought about by the Fascist Revolution. After the conquest of Ethiopia, on May 14, 1936, his title was amended so that he is now known as "King of Italy, Emperor of Ethiopia." The article below discusses the Italian throne and its relation to the Fascist State. (Charles Petrie, "Monarch and Dictator," *The Quarterly Review*, CCLXX, January, 1938, 87.)¹

It was not until a month before the March on Rome that Mussolini openly declared himself a monarchist, after having previously been a republican, if not a very active one. At the same time it would probably be just to say that his early republicanism was not due to any dislike of the Italian monarchy as such, but rather to a feeling that the abuses of the national political system could not be removed without a change of regime. The Fascist rank and

¹ Reprinted by permission of *The Quarterly Review*, London.

file were naturally much slower than their leader in accepting the monarchy, and they only did so from the point of view of expediency. Fascism had drawn its recruits from many quarters, some of them the very reverse of monarchical, and time was required to bring to this section of the party a realization of what the monarchy meant to Italy. During the earlier years, then, of the Fascist regime the Crown was popular in Piedmont and with the more far-sighted everywhere, but those Fascists who had come from the Left, though possibly convinced of the necessity of monarchical government, did not yet display cordiality where it was concerned.

Meanwhile it had been due to the King that the March on Rome had taken place without bloodshed. Whatever view may be held of the merits of Fascism, there can be no doubt that in October, 1922, armed resistance to it was out of the question, and would only have entailed unnecessary suffering. The Government was taken by surprise by the Fascist rising, and Luigi Facta, the Prime Minister, had recourse to methods which it is more than doubtful whether he had the force at his disposal to apply successfully. He ordered the immediate arrest of Mussolini and his principal supporters and he issued a decree establishing martial law throughout the country. Hardly had this latter action been taken than Facta was reminded that it was illegal without the Royal assent, and when he went to the King to obtain this he was met with a blank refusal. The decree was thereupon withdrawn and Facta resigned. By adopting this attitude the monarch undoubtedly prevented the outbreak of civil war, and thus proved once again that he was in closer touch with public opinion than were his ministers.

The constitutional position of the Crown has been altered somewhat since the establishment of the Fascist regime. In the old days the King selected the Prime Minister in much the same way as the President of the French Republic does at the present time, that is to say, when an administration fell the monarch entered upon a series of consultations, first of all with the Presidents of the Senate and Chamber and then with the leaders of the various parties, with a view to finding someone who could collect a sufficient majority to keep him in office for a time. Fascism adopted the system of Hohenzollern Germany, and the Head of the Government, as the Prime Minister is always styled in Italy, is now re-

sponsible not to the Chamber but to the King. In the event, for example, of the death or retirement of Mussolini the Fascist Grand Council, which roughly corresponds with the English Privy Council in the seventeenth century, would present a list of names to the King, and from this the latter would select his Prime Minister. According to the existing law it is the Head of the Government who nominates and dismisses other ministers. The Fascist Grand Council must also be consulted in all constitutional matters, so that any proposals affecting the succession to the throne, the powers of the Crown, or the Royal prerogative would require to come before it.

It is commonly believed outside Italy that King Victor Emmanuel is a mere cipher. Nothing could be further from the truth. His conception of his duty as a constitutional monarch is to work with whatever ministers the country may desire, and only to intervene directly when there is a crisis which cannot be solved except by his interposition. He is no more and no less in the background during the regime of Mussolini than he was during that of Giolitti. The Duce never takes a step of any importance without consulting the King, and the latter's word carries the greatest possible weight, as any foreign diplomat who knows his Rome will testify. That he always agrees with Mussolini is improbable, and there were very strong rumours that he did not approve of the Abyssinian adventure, but he is fully alive to the benefits which Fascism has conferred upon Italy.

If English people wish to understand what King Victor Emmanuel and Queen Elena mean to the Italians they would do well to think in terms of King George V and Queen Mary. When one mixes with the poor the attitude is the same as in England. In such places as hospitals and welfare centres one is continually being told what the Queen said when she was there, what she wore, and how long she stayed. Totalitarian as the Italian State may be, the Crown is regarded as being above politics: it is the symbol of the national unity, and the latter is too recent for the former to be in any danger of losing its meaning. There are a hundred stories going around Rome of the King's kindness, good nature, and sagacity, but it is extremely rare that one hears an unflattering remark or an adverse criticism.

148 "HEAD OF THE GOVERNMENT"

The following law, enacted on December 25, 1925, is an important cornerstone of the Italian dictatorship. Under the act Mussolini is known not only as prime minister but also as the "Head of the Government." The document significantly fails to mention any responsibility to parliament, and it is understood that Mussolini's responsibility to the king is only nominal. In accordance with the law Mussolini has held several cabinet portfolios simultaneously. The other ministers have been appointed nominally by the king with Mussolini's approval, but actually the selections are made entirely by the latter. Article 6 of the act takes initiative in legislation away from parliament and places it with the Head of the Government (*European Economic and Political Survey*, I, No. 9, 10-11) ¹

ARTICLE 1

The executive power is exercised by the King through his Government. The Government of the King consists of the Prime Minister, Secretary of State and of the Ministers Secretaries of State.

The Prime Minister is the Head of the Government.

ARTICLE 2

The Head of the Government, the Prime Minister, Secretary of State is appointed and dismissed by the King and is responsible to the King for the general policy of the Government.

The decree of appointment of the Head of the Government, the Prime Minister is countersigned by him, that of dismissal by his successor.

The Ministers Secretaries of State are appointed and dismissed by the King with the approval of the Head of the Government, the Prime Minister. They are responsible to the King and to the Head of the Government for all the acts and rulings of their Ministries.

¹ Reprinted by permission of *The European Economic and Political Survey*, Paris.

The Under Secretaries of State are appointed and dismissed by the King with the approval of the Head of the Government in concert with the competent Minister

ARTICLE 3

The Head of the Government the Prime Minister directs and co-ordinates the activities of the ministers, decides differences which may arise between them, convokes the Council of Ministers and presides over it.

ARTICLE 4

The number, the appointment, and the attributes of the Ministers are established by the Royal Decree, with the approval of the Head of the Government

The direction of one or several ministries may be entrusted to the Head of the Government by Royal Decree. In such a case he may, by decree, delegate to an Under Secretary of State certain of the attributes of the Minister

ARTICLE 5

The Head of the Government is a member of the Council of Guardianship and Care of the Persons of the Royal Family and exercises the functions of Notary of the Crown. He is likewise, by right, Secretary of the Supreme Order of the Most Holy Annunziata.

ARTICLE 6

No question can be placed on the agenda of either of the two Chambers without the consent of the Head of the Government.

The Head of the Government may demand that a bill, rejected by one of the two Chambers, be reconsidered three months after the first vote took place. In such cases the bill is voted upon immediately, without discussion, and by secret ballot. When, simultaneously with the request for a re-vote, modifications are proposed by the Government, the examination and discussion of the bill are limited to the modifications, whereupon the vote on the bill by secret ballot takes place.

The Head of the Government can likewise request that a bill, rejected by one of the two Chambers, be sent to the other and examined and voted on by this Chamber.

When a bill, already passed by one of the two Chambers, is approved by the other with modifications, the new examination

and discussion by the Chamber to which the bill is sent back are limited to the modifications, whereupon the vote on the bill by secret ballot takes place

149. GOVERNMENT BY DECREE

Mussolini's powers as the Head of the Government were somewhat extended by the law of January 31, 1926, concerning the power of the executive to promulgate decrees having the force of law. The practice of issuing decrees is not new in Italy. The provision of the *Statuto* that the crown may issue decrees and regulations for the execution of laws had been used frequently before the rise of Fascism. The law of 1926 removed some of the restrictions which had hitherto been understood to exist, and thereby transferred to the executive branch some of the powers of parliament. Article 1 of that law, given below, states three bases for royal orders, but it is understood that the king will act only on the advice of the Head of the Government in issuing them. Article 3 permits emergency decrees which will be effective pending the parliamentary ratification necessary to make them permanently binding. By delaying submission of these decrees to parliament until the third session after their publication, as the act permits, the Head of the Government was able to put them into force for a considerable period, entirely on his own responsibility. The Act of Oct. 8, 1938, reorganizing the Chamber of Deputies as the Chamber of Fasci and Corporations, alters those portions of this Act which relate to the ratification of decrees by the Italian Parliament (*British and Foreign State Papers*, CXXVII, Part 3, 755-56)

Article 1 After prior consultation of the Council of Ministers, and having heard the opinion of the Council of State, the juridical provisions necessary to promulgate the following shall be issued by Royal decree —

- (1) The execution of laws
- (2) The exercise of the faculties vested in the executive power
- (3) The organisation and functioning of the State administrations, the regulation of their personnel, the regulation of public

bodies and institutes, with the exception of the communes, provinces, public charitable institutions, universities and institutes of higher education which possess juridical personality, even in matters hitherto regulated by law.

There is retained the necessity for approval, in the budget law, of the relative expenses, and in every case the regulations concerning judicial organisation, the competence of the judges, the organisation of the Council of State, and of the Audit Board, as well as the guarantees of magistrates and other irremovable officials, must be established by law

. . .

Article 3 After consultation of the Council of Ministers, regulations with the form of law may be issued by Royal decree —

(1) When the Government is therefore authorised by law and within the limits of such authorisation

(2) In extraordinary cases in which reasons of urgent and absolute necessity require it The decision on the necessity and urgency is subject to no other authority than the political authority of Parliament.

In the cases specified under No (2) of the preceding paragraph the Royal decree must contain the proviso of presentation to Parliament for conversion into law, and must be presented, for the purpose of such conversion, to one of the two Chambers not later than the third session after its publication, failing which it shall lose force

Immediate notice of such presentation shall be published in the "Gazzetta Ufficiale"

The bill for the conversion of the decree into law shall be considered a matter of urgency

In case of closure of the session, on the opening of the new session the bill for conversion into law is held to be again presented to that Chamber in which it was pending examination When one of the two Chambers approve the bill, its President shall transmit it within 5 days to the presiding body of the other Chamber, this transmission is considered as presentation of the bill

If one of the two Chambers refuses to convert it into law, the President shall publish a notification to this effect in the "Gazzetta Ufficiale," and the decree shall cease to have operation from the date of such publication

If the decree is converted into law with amendments, the effect of such amendments dates from the publication of the law

If within 2 years from its publication the decree has not been converted into law, it shall cease to have effect as from the date of the expiration of this period

150. THE CHAMBER OF FASCI AND CORPORATIONS

Speaking to the National Guild Council on November 14, 1933, Mussolini stated his plan to abolish the Chamber of Deputies. This intention was affirmed several times in later statements. It is clear that, in a corporate state, the legislative body would logically have a close relationship to the all-important corporations. A law enacted on October 8, 1938, provides for the abolition of the Chamber of Deputies at the end of its 1939 session. In its place there is instituted the Chamber of the Fasci and of the Corporations. As the name of the new organ suggests, it contains representatives of the Fascist party and of the Corporations. The Senate is continued as before under the new arrangement.

The Act of October 8, 1938, does not affect the decree-making authority of the executive branch. It will necessarily follow, however, that the Chamber of the Fasci and the Corporations will act in place of the Chamber of Deputies in the matters referred to in the law below ¹

THE CHAMBER OF FASCI AND CORPORATIONS

Article 1 The Chamber of Deputies is to be abolished with the termination of the XXIX Legislature. In its place there is to be set up the Chamber of Fasci and Corporations.

Article 2 The Senate of the Kingdom and the Chamber of Fasci and Corporations are to collaborate with the Government in the making of laws.

Article 3 The Chamber of Fasci and Corporations is to be composed of the members of the National Council of the National Fascist Party and of the members of the National Council of Corporations, except as provided in Article 9. Modifications in the

¹ *Il Popolo d'Italia* Milano, October 8, 1938

composition of the National Council of the National Fascist Party and of the National Council of the Corporations are to be made according to law.

Article 4 The Leader (Duce) of Fascism, Head of the Government, of right participates in the Chamber of Fasci and Corporations.

All members of the Grand Council of Fascism except senators and the academicians of Italy are also to participate

Article 5 The national councillors who form the membership of the Chamber of Fasci and Corporations must possess the qualifications prescribed by Article 40 of the Statute of the Kingdom, but the minimum age limit is fixed at 25 years, an age which must have been reached by the day of the oath mentioned in Article 6.

The status of national councillor is to be established by a decree of the Leader (Duce) of Fascism, and Head of the Government, to be published in the Official Gazette of the Kingdom

Article 6 Before they are permitted to perform their duties, the national councillors must take an oath in a plenary assembly according to the regulations of Article 49 of the Statute of the Kingdom.

Article 7 The national councillors are to enjoy the prerogatives already fixed for the deputies by the Statute of the Kingdom. An annual remuneration determined by law will be paid to the national councillors . . .

Article 8 The national councillors will be released from their duties when the Councils which go to make up the Chamber of the Fasci and Corporations cease to function

Article 9 No one can be at the same time a National Councillor and a Senator or an Academician of Italy

Article 10 The periods of work of the Senate of the Kingdom and the Chamber of the Fasci and Corporations are to be divided into legislatures. The end of each legislature is to be fixed by royal decree upon the proposal of the Leader (Duce) of Fascism, Head of the Government

The decree is also to fix the date for the convocation of the legislative assemblies, joined together to listen to the Speech of the Crown with which begins each successive legislature

In order to perform the regular legislative duties the assemblies are to be periodically called together by the Leader (Duce) of Fascism, Head of the Government.

Article 11 The President and the Vice-Presidents of the Chamber of Fasci and Corporations is to appoint the other officials created to regulate the internal affairs of the assembly

Article 12. The Chamber of Fasci and Corporations will exercise its proper functions by means of the plenary Assembly, the General Commission of the Budget, and by the Legislative Commissions.

For special matters there may be set up other permanent and special commissions

Article 13 The Legislative Commissions are to be appointed by the President of the Chamber of Fasci and Corporations, to correspond to definite national activities The president may convene them at any time The president is to appoint and convene also the other commissions provided for in Article 12.

Article 14 The President and the Vice-Presidents of the Chamber of Fasci and Corporations may participate in the work of the Commissions, in which case they are to preside over them

The ministers, and upon their instructions, the Under-Secretaries of State, may intervene in the work of the Commissions.

The provisions of the present Article and those of Articles 12 and 13 are to apply also to the Senate of the Kingdom

Article 15 Laws of a constitutional nature, according to Article 12 of the Law of December 9, 1928, No 2643, those laws indicated in the last paragraph of Article 1 of the Law of January 31, 1926, No 100, laws of a general character, financial measures, and reports of expenditure by the state and by the autonomous agencies of the state, are to be discussed and voted upon by the Chamber of Fasci and Corporations, and by the Senate, in their respective assemblies after report of the respective commissions on these matters.

The balloting will always take place in an open and public manner.

There are also to be discussed in the manner indicated in the preceding paragraph those laws in which the Government asks for a special form of discussion, that is, either one that is proposed by the respective plenary assemblies or by the commission, or one that is authorized by the Leader (Duce) of Fascism, Head of the Government.

Article 16 Laws not considered in the above Article 15 are to be referred to the commissions of the Chamber of Fasci and

Corporations and of the Senate for exclusive study or examination

Laws which have been approved are to be submitted by one assembly to the other through the respective presidents

Within a month after the submission of every law, a limit which may be cancelled by the Leader (Duce) of Fascism, Head of the Government, that text which has been discussed and approved by the commissions of the Chamber of Fasci and Corporations and of the Senate is to be transmitted to the Leader (Duce) of Fascism, Head of the Government, who will arrange that it be submitted to the approval of the Sovereign and promulgated in the regular ways fixed by the laws

In the preambles of these laws there must be indicated the future confirmation of the commission of both assemblies

The regulations so published have all the force and effect of law

Article 17 The form of discussion and approval established in Article 16 may be followed also for the laws indicated in Article 15, when the Leader (Duce) of Fascism, Head of the Government, so decrees for reasons of emergency

Article 18 When there exists a condition of necessity because of war or because of emergency measures of a financial or tax nature, a royal decree may suffice without observing the procedure provided for by Article 16

The same procedure (i e, royal decree) may be followed if the commissions have not completed their functions in the prescribed time

In these cases there are to be applied the regulations contained in the second and following paragraphs of Article 3 of the law of January 31, 1926, No 100

Article 19 The corporative regulations established by the Corporations and the collective economic agreements entered upon by the interested associations, when, under whatever form of denomination, they (i e, regulations) demand contributions from those belonging to the categories to which the regulations or the agreements make reference, may by the judgment of the Leader (Duce) of Fascism, Head of the Government, after they have been examined by the Central Corporative Committee, be presented to the Chamber of Fasci and Corporations, there to be sub

mitted to the examination of the appropriate legislative commission, or, if necessary, to several commissions meeting together

In those cases in which the commission or the commissions assembled together propose changes in the text worked out by the Corporations, the approval of these must be referred to the plenary assembly of the Chamber of Fasci and Corporations. The final text is to be transmitted by the president of the Chamber of Fasci and Corporations to the Leader (Duce) of Fascism, Head of the Government, who will publish it, together with the proper decree in the official collection of the laws and decrees of the Kingdom

Article 20 Judicial regulations which are within the competence of the government, according to the terms of the law of January 31, 1926, No. 100, when they have to do with questions of a technical or economic nature pertaining to the specific activity of the Corporations, must be made, except in cases of emergency, only after the advice or counsel of the pertinent Corporation or by a Consultative committee which the Corporation has appointed

Article 21 All regulations contrary to those contained in the present law or incompatible with it are herewith abrogated

The drafts of these two laws will be submitted to the Council of Ministers called for the 7th of November, XVII, for examination

151 THE GRAND COUNCIL OF THE FASCIST PARTY

Serving as a connecting link between Mussolini, as Head of the Government, and the Fascist party, the Grand Council has come to be one of the conspicuous branches of the Italian Government. The law of December 9, 1928, raised the Council from a party organ to an agency of the state. Its duties are largely advisory and consultative in matters of policy, filling the position occupied by a cabinet in some countries. The Council usually contains about twenty members, all of them Fascists and most of them deriving their right to membership directly or indirectly from Mussolini. On December 14, 1929, the law of 1928 was amended to alter the composition of the Council. The act given below is that of 1928 in its amended form. In 1936 the Minister of Press and Propaganda was admitted, *ex officio*, to the Council, and in 1937 the membership

of the vice-secretaries of the party in the organ was abolished (*European Economic and Political Survey*, IV, No 8, 231-32)¹

ARTICLE 1

The Fascist Grand Council is the supreme organ co-ordinating and uniting all the activities of the régime which arose out of the October Revolution of 1922. It has deliberative functions in the cases laid down by the Law and shall, moreover, give advice on every other political, economic and social question of national interest on which it may be consulted by the Chief of the Government.

ARTICLE 2

The Chief of the Government, Prime Minister, Secretary of State is of right President of the Fascist Grand Council. He summons the Council whenever he considers necessary and settles the agenda.

ARTICLE 4

(Art. 2 of Amendment of 1929)

The quadrumvirate of the march on Rome are members of the Grand Council of Fascism for an indefinite period.

ARTICLE 5

(Art. 3 of Amendment of 1929)

The following are *ex officio* members of the Grand Council for whole duration of their functions:—

(1) The Presidents of the Senate of the Kingdom and the Chamber of Deputies

(2) The Ministers Secretaries of State for Foreign Affairs, the Interior, Justice, Finance, National Education, Agriculture and Forests, and Corporations

(3) The President of the Royal Academy of Italy

(4) The Secretary and the two Vice-Secretaries of the National Fascist Party

(5) The Commandant-General of the Voluntary Militia for National Security.

¹ Reprinted by permission of *The European Economic and Political Survey*, Paris

(6) The President of the Special Tribunal for the Defence of the State

(7) The Presidents of the National Fascist Confederations and of the National Confederations of the Fascist Syndicates of Industry and Agriculture

ARTICLE 6

The membership in the Grand Council of all persons mentioned in the three preceding articles shall be recognized by Royal decree, on the proposal of the Chief of the Government. The recognition may be revoked by the same means at any time.

ARTICLE 7

(Art. 4 of Amendment of 1929)

By decree of the Head of the Government, persons may be nominated members of the Grand Council of Fascism for a period of 3 years and with the faculty of confirmation of appointment who have, as members of the Government, or secretaries of the National Fascist Party since 1922, or for other services, deserved well of the nation and of the cause of the Fascist revolution.

Such nomination can at all times be revoked by the same procedure.

ARTICLE 8

The status of member of the Grand Council is compatible with the status of Senator and Deputy.

ARTICLE 9

No member of the Grand Council may be arrested, except in the case of a flagrant crime, or subjected to penal procedure or made liable to police measures without the authorization of the Grand Council.

No disciplinary measure may be taken against a member of the Grand Council as an adherent of the National Fascist Party without the decision of the Grand Council.

ARTICLE 10

The work of a member of the Grand Council shall be gratuitous.

No expense whatsoever may be requested from the State for the functioning of the Grand Council.

The sittings of the Grand Council shall be secret Internal regulations, approved by the Grand Council, shall determine the other rules of its functioning

ARTICLE 11

The Grand Council shall deliberate on

- 1 The list of Deputies designated according to article 5 of the law of March 17, 1928, No 1019,
- 2 The statutes and the political rules and directives of the National Fascist Party,
- 3 The appointment and dismissal of the secretary, the vice-secretaries, the administrative secretary and other members of the Directory of the National Fascist Party

ARTICLE 12

The Grand Council shall be consulted on all questions having a constitutional character.

As constitutional questions shall always be considered projects of law dealing with

1. The succession to the Throne, the powers and prerogatives of the Crown,
- 2 The composition and working of the Grand Council, of the Senate of the Kingdom and of the Chamber of Deputies,
- 3 The powers and prerogatives of the Chief of the Government, Prime Minister, Secretary of State,
- 4 The right of the Executive Power to decree judicial measures,
5. The syndicalist and corporative regulations,
- 6 The relations between the State and the Holy See,
- 7 International treaties involving a change in the territory of the State and of the Colonies or the renunciation of title to territories.

ARTICLE 13

The Grand Council, on the proposal of the Chief of the Government, shall draw up and keep up to date a list of names to be submitted to the Crown for nomination in the event of a vacancy in the post of Chief of the Government, Prime Minister, Secretary of State

152 LOCAL GOVERNMENT

In 1932 the Italian legislature authorized the codification of the numerous acts affecting local government which had been passed after 1915, many of them by the Fascist government. The *legge comunale e provinciale*, signed by the king on March 3, 1934, is the result of this effort. It is a comprehensive document of 427 articles, providing the present basis for authority in local matters. Founded upon characteristic Fascist doctrines, the act insures strong central control in local matters, destroys democratic institutions, and introduces the corporate principle. The provisions of the law are summarized below (H. Arthur Steiner, "The Italian Law on Communal and Provincial Government," *National Municipal Review*, XXV, September, 1936, 520-27) ¹

In the new law are basically retained, if not amplified, the general regulations which have made Italy perhaps the most highly centralized of the unitary states. So vast is the authority and power of the central government over local affairs, and so few are the autonomous subjects of local jurisdiction, that it is almost misleading to say that the line of responsibility runs upward. It is more correct to say that the responsibility is concentrated at the top and that this responsibility is administered, under complete supervision, by subordinate agencies.

THE COMMUNES

In keeping with the progressive tendency, an effort is made to adapt the many communes of small population to a more effective solution of problems created by modern technology. Communes with a population of less than two thousand which lack facilities adequate for the public services may, when topographical conditions permit, be combined or added to the area of a larger commune. Upon suitable recommendation by the *podesta*, these combinations may subsequently be dissolved.

¹ Reprinted by permission of the author and of the *National Municipal Review*, New York.

The podesta, often compared to the American city manager, continues to be the officer responsible for communal administration. The podesta is appointed by royal decree; the vice-podesta, where provision is made for him, is appointed by decree of the Minister of the Interior. Both serve for four years and may be reappointed. Either may be suspended by the prefect for non-observance of official duties or for reasons of public urgency. For the same reasons either may be removed by the appointing authority. In no case may an appeal be taken from the action of suspension or removal. Throughout the entire law liberal removal powers are granted, thus guaranteeing thorough administrative conformity.

With a few exceptions, prospective appointees to these positions must present diplomas attesting to their technical or magistral competence.

The dual nature of the functions performed by the podesta is succinctly expressed in article 50: "The podesta administers the commune and is an official of the government." As the communal administrator, he enjoys a variety of powers, including supervision of officials and employees, economic agreements, transactions, including communal contracts, regulation of communal property, hygiene, public buildings, and local police, and, in general, "all matters which are appropriate to the commune." As an official of the government he is charged, subject to regulation of superior officers, with responsibility for maintaining the civil functions, keeping the necessary official registers, securing the public order, and, in general, "to discharge the duties confided in him by law." . . .

Ten years ago the elective councils which formerly functioned within the communes were replaced by appointed councils. This appointive principle is retained in the new legislation. .

The corporative principle which prevails on higher levels is especially adapted to the composition of the communal council. The larger economic enterprises of the commune (provided that they employ more than 1 per cent of the workers of the commune) enjoy a representation so regulated that each communal council will have in equal numbers representatives of the employers' and employees' syndical organizations. It is the responsibility of the prefect to determine which productive enterprises are to be represented, and to what extent. . .

THE PROVINCES

Within the provinces the chief instrumentalities of government consist of the prefect, the prefectural council, the provincial administrative *giunta*, and the rectory. A brief inquiry into each must be made.

"The prefect is the highest authority of the state within the province. He is the direct representative of the executive power." Thus does article 19 describe the character of the prefectural office, and the prefect continues, as in the past, to be the appointee of the Ministry of the Interior. He is not only the initiating, co-ordinating, and directive leader of the province, but is in addition the supervisor of the national government personnel within the province, except for the justice, war, marine, aeronautic, and railroad administrations. In these affairs he is assisted by the vice-prefect.

The prefectural council consists of three members: the prefect, who presides (or the vice-prefect in his place), and two councillors. The powers of the council are defined by general laws, and ordinarily it advises the prefect before a variety of administrative ordinances issued by him are placed in effect. As an administrative and appointive body, the council is not normally expected to restrain or check the prefect, in whom the final responsibility is vested.

More interesting is the role of the provincial administrative *giunta*, which will be simply described hereafter as the *giunta*. This body has a dual function—first, as an administrative body, and second, as a jurisdictional (quasi-judicial) body. As an administrative organization, it consists normally of nine members: the prefect who presides (or the vice-prefect in his place), the provincial inspector, the two members of the prefectural council, all designated at the beginning of each year by the prefect, the financial head of the province, and four members appointed for four years by the secretary of the National Fascist Party from persons who are experts in judicial, administrative, and technical matters.

As a jurisdictional body, the *giunta* consists of the prefect, the two members of the prefectural council, and the two senior members of the administrative body appointed by the party.

The administrative functions of the *giunta* consist primarily in the hearing of appeals from the actions of the local *podestas* and

councils and its approval is required for many of the decisions of the provincial rectory

A provincial rectory is created within each province to have general jurisdiction over those legislative matters which appertain to the province and which were, until their abolition ten years ago, within the jurisdiction of elective councils. The number of rectors varies with the size of the province.

All hold office for four years, subject to reappointment. Unlike the communal councils, the corporative principle does not apply. All appointments are made by the Minister of the Interior.

The responsible head of the rectory is the president, whose appointment for a term of four years comes from the Crown by royal decree. These appointments may be revoked at any time. A vice-president is also appointed in the same manner for each province.

Just as the communal council is dependent upon the *podesta* and higher authorities, so with the rectory. The rectory may be suspended by the prefect, provided that the matter be referred immediately to the Minister of the Interior. The Minister of the Interior may dissolve the body at any time . . .

The normal relationship between the prefect and the president and rectory is analogous to the relationship between the *podesta* and the communal council .

THE "CONSORZI"

Provision for the creation of joint administrations goes much further in Italian practice than in other countries, and this constitutes a highly significant aspect of the local government system. In the case of Italy *consorzi* or "unions" may be created as between communes, communes and provinces, and provinces .

Each *consorzi* thus created has an assembly (*assemblea consorziale*), a directive council (*consiglio direttivo*) and a president. The representatives of the various members in the organs of the *consorzi* are nominated for the communes by the *podesta*, for the provinces by the rectory.

CHAPTER XXV

THE CORPORATIVE STATE

153 A DEFINITION OF THE CORPORATIVE STATE

THE English word "corporation" has no meaning comparable to the sense in which it is used in the Italian Fascist system. In Italy, a corporation is a state administrative agency, controlling certain economic or social interests, as agriculture or a phase of manufacturing. The corporative organization, viewed collectively, is the means by which the state regiments the economic life of the country and of the individual. The main objective is state power, particularly in the matter of military strength. The economic self-sufficiency which it seeks is intended to free the nation from external pressure in war.

In 1926, the corporative principle was first given practical application through the establishment of syndical organizations under government control. From that time on, the construction of the system continued piecemeal until 1934, when it was completed by the Corporations Act. Since 1935 the corporate state has been a reality.

The resolution below was drafted by Mussolini and read by him to the Assembly of the National Council of Corporations on November 13, 1933. It defines the corporations and outlines their sphere of activity. (Benito Mussolini, *The Corporate State*, 1935, p. 7.)

"The National Council of Corporations

"defines Corporations as the instrument which, under the aegis of the State, carries out the integral, organic and unitarian regulation of production with a view to the expansion of wealth, political power, and well-being of the Italian people

"declares that the number of Corporations to be formed for the main branches of production should, on principle, be adequate to meet the real needs of national economy,

"establishes that the general staff of each Corporation shall include representatives of State administration, of the Fascist Party, of capital, of labour and of experts,

"assigns to the Corporations as their specific tasks conciliation, consultation (compulsory on problems of major importance) and the promulgation, through the National Council of Corporations of laws regulating the economic activities of the country,

"leaves to the Grand Council of Fascism the decision on the further developments, of a constitutional and political order, which should result from the effective formation and practical working of the Corporations "

154 THE CHARTER OF LABOR

Assuming the existence of the machinery established by the law of 1926, and outlining the creation at a later date of other agencies for the regulation of economic life, the Labor Charter proceeded to lay down the main principles of the corporative state. National integration, which appears to be the main objective, is sought through a program hostile both to socialism and to economic liberalism. The charter approves of private initiative in industry, and advocates governmental intervention only when necessary in the interests of public welfare. The charter is intended to be not merely an enumeration of abstract principles but also a statement of a concrete and practical plan of action. In order to accomplish the purpose, detailed provisions are written into the document relating to the conditions of employment. (English text taken from A. L. Pennachio, *The Corporative State*, 1927, pp. 150-57) ¹

¹ From A. L. Pennachio, *The Corporative State*, The Italian Historical Society, N. Y. Reprinted by permission of the author and the publishers

Article 1. The Italian nation is an organism possessing a purpose, a life, and instruments of action superior to those possessed by the individuals or groups of individuals who compose it. The nation is a moral, political, and economic unity integrally embodied in the Fascist state.

Art 2. Labor in all its manifestations, whether mental, technical, or manual, is a social duty. It is by virtue of this fact, and by virtue of this fact alone, that labor falls within the purview of the State. When considered from a national point of view, production in its manifold forms constitutes a unity, its many objectives coinciding and being generally definable as the well-being of those who produce, and the development of national power.

Art 3. Organization whether by trades or by syndicates is unrestricted, but only the syndicate legally recognized by the State and subject to State control is empowered.

To legally represent the particular division of employers or employees for which it has been formed,

To protect the interests of these as against the State or as against other trade organizations,

To negotiate collective labor contracts binding upon all those engaged in the branch in question,

To levy assessments and to exercise, in connection with the branch, specified functions of public import.

Art 4. The collective labor contract gives concrete expression to the common interest of the various elements of production (capital and labor) by reconciling conflicting interests of employees and subordinating these to the higher interests of production at large.

Art 5. The Labor Court is the organ through which the State acts in settling labor controversies, whether these arise in connection with observances of rules or agreements already made or in connection with new conditions to be fixed for labor.

Art 6. The trade associations legally recognized guarantee equality before the law to employees alike. They maintain discipline in labor and production and promote measures of efficiency in both. The Corporations constitute the unifying organization of the elements of production (capital and labor) and represent the common interests of them all. By virtue of this joint representation, and since the interests of production are interests of the Nation, the Corporations are recognized by law as organs of the State.

Art 7 The Corporative State regards private initiative in the field of production as the most useful and efficient instrument for furthering the interests of the Nation. Since private enterprise is a function of import to the nation, its management is responsible to the State for general policies of production. From the fact that the elements of production (labor and capital) are co-operators in a common enterprise, reciprocal rights and duties devolve upon them. The employee, whether laborer, clerk, or skilled workman, is an active partner in the economic enterprise, the management of which belongs to the employer who shoulders the responsibility for it.

Art 8 Trade associations of employers are under obligation to increase business, to improve quality of output, and to reduce costs in every possible way. The organizations representing practitioners of the liberal professions or of the arts, and the associations of state employees, work together for furthering the interests of science, letters and the arts, for improving the quality of production and for realizing the moral ideals of the corporative organization of the State.

Art 9 The State intervenes in economic production, only in cases where private initiative is lacking or insufficient or where political interests of the State are involved. Such intervention may take the form of supervision, of promotion, or of direct management.

Art. 10 In labor controversies involving groups, there can be no recourse to the Labor Court until the corporation has exhausted its efforts for adjustment. In controversies involving individuals in connection with applications or interpretations of collective contracts, the trade associations are empowered to offer their mediation for settlements. Jurisdiction in such controversies belongs to the ordinary Labor Courts supplemented by the referees appointed by the trade associations concerned.

Art 11 The trade associations are required to regulate by collective contracts labor relations between the employers and the employees whom they represent. The collective contract is made between associations of primary grade, under the guidance and with the approval of the central organizations, with the provision that the association of higher grade may make substitutions in cases specified in the constitutions of the associations or by law. All collective labor contracts must, under penalty of voidance, contain

specific statements of the rules governing discipline, of trial periods, of the amounts and manner of payment of wages, of schedules of working hours

Art 12 The operation of the syndicates, the mediation of the Corporations and the decisions of the Labor Court guarantee correspondence between wages and the normal demands of living, the possibilities of production and the yield from labor The fixing of wages is withdrawn from any general rule and entrusted to agreements between parties in the collective contracts

Art 13 Losses occasioned by business crises and by variations of exchange must be equitably divided between the elements of production (capital and labor) Statistics relating to conditions of production and labor, to variations of exchange, to changes in standards of living, as issued by the various governmental departments, by the Central Bureau of Statistics and by the legally recognized trade associations, and as co-ordinated and elaborated by the Ministry of Corporations, will constitute the criteria for adjusting the interests of the various branches of trade, and of harmonizing the interests of the various classes, with those of other classes, *vis-à-vis* of each other, and of the higher interests of production in general

Art 14 When wages are paid on the basis of piece work and payments are made at intervals greater than two weeks, suitable weekly or bi-weekly accountings must be furnished Night work not comprised in regular periodical shifts must be paid for by some percentage in addition to the regular daily wage When wages are based on piece work, piece payments must be so fixed that the faithful worker of average productive ability may have a chance to earn a minimum in excess of the basic wage

Art 15 The employee is entitled to a weekly holiday falling on Sundays Collective contracts will apply this principle so far as it is compatible with existing laws, and with the technical requirements of the enterprise concerned, and within the same limits, they will aim to respect civil and religious solemnities in accord with local traditions Working hours must be scrupulously and earnestly observed by employees

Art. 16 After a year of uninterrupted service, the employee in enterprises that function the year round, is entitled to an annual vacation with wages

Art. 17 In concerns functioning the year round, the employee is entitled, in case of discharge through no fault of his own to a

compensation proportioned to his years of service. Similar compensation is likewise due in case of death

Art. 18 Transfers of ownership of concerns offering steady work do not affect labor contracts, and the employees of such concerns retain all their rights and claims against the new proprietors. Likewise the illness of an employee, not in excess of a specified duration, does not cancel the labor contract. Call to service in the Army or Navy or in the Fascist Militia (the Volunteer Militia for National Safety) does not constitute valid cause for dismissal.

Art. 19 Infractions of discipline on the part of employees and acts disturbing to the normal functioning of a concern, are punished, according to the seriousness of the offense, by fine, by suspension, or in grave cases, by immediate discharge without compensation. The cases in which the employer may impose the respective penalties of fine, suspension, or discharge without compensation, must be specified.

Art. 20 The employee newly hired is subject to a trial period, during which there is a reciprocal right to cancel the labor contract, the employee in such case being entitled to wages only for the time of actual service.

Art. 21. The collective labor contract extends its benefits and its discipline to home workers as well. Special regulations are to be promulgated by the State to assure proper hygienic conditions for home labor.

Art. 22 The State has exclusive power to determine and control the factors governing employment and unemployment, since these are indices of the general conditions of production and labor.

Art. 23. Employment bureaux are to be managed by the Corporations through commissions having equal representation of employers and employees. Employers are required to practice selection among workers with right of choice among the various registrants, giving preference, however, to such as are members of the Fascist Party of the Fascist syndicates, and to priority of registration.

Art. 24 The trade associations of workers are required to practice selection among workers with a view to constant improvement in the technical skill and the moral character of personnel.

Art. 25 The corporations must supervise the observance of the laws governing safety, accident prevention, and sanitation by the individuals subject to the central organization of associations.

Art 26 Insurance is another manifestation of the principle of collaboration. Employers and employees must bear proportionate shares of such burdens. The State, working through the corporations and trade associations, will strive to co-ordinate and unify as far as possible the agencies and the system of insurance.

Art 27 The Fascist State is working —

- (a) for improvements in accident insurance,
- (b) for improvements and extensions of motherhood insurance,
- (c) for insurance against professional diseases and tuberculosis as a step toward general insurance against illness in general,
- (d) for improvements in insurance on involuntary unemployment,
- (e) for the adoption of special forms of endowment insurance (*dotatie*) for young workers.

Art 28 Protection of the interests of employees in legal and administrative problems arising in connection with accident and other forms of social insurance devolves upon the associations which represent them. Collective labor contracts will provide, where technically possible, for the establishment of mutual funds for insurance against illness, such funds to consist of contributions from employers and employees and to be administered by representatives of both classes under the general supervision of the corporations.

Art 29 The trade associations have the right and the duty to provide relief for the workers they represent whether these be members or non-members. Such functions of relief must be exercised directly by committees of the associations themselves and must not be delegated to other institutions or corporations save for purposes of a general character which transcend the particular interests of the branch of production concerned.

Art 30 Training and education, especially technical training of the workers they represent, whether these be members or non-members, is one of the principal duties of the trade associations. The associations must lend their support to the national institutes which deal with recreation and free time, and to other enterprises of education.

155 THE CORPORATIONS ACT

The text of the Corporations Act of January 18, 1934, is given below. The law does more than provide for the creation

of Corporations One may observe in it arrangements designed to promote economic planning, and to bring the economic system of the country under the close scrutiny if not the actual direction of the government (*Industrial and Labor Information*, XLIX, No 7, 211-12)

Section 1 The Corporations provided for in Declaration VI of the Labour Charter, in the Act of 3 April 1926 No 563, and in the Royal Decree of 1 July 1926 No 1130, shall be established by Decree of the Head of the Government on the recommendation of the Minister of Corporations after the opinion of the Central Committee of Corporations has been heard

Sec 2. The President of a Corporation shall be a Minister or Under-Secretary of State or the Secretary of the National Fascist Party, such President shall be nominated by the Head of the Government, President of the National Council of Corporations

Sec 3 The Decree establishing a Corporation shall determine the number of members to compose its Council and the number of members to be designated by each of the associations which are grouped in the Corporation These designations are subject to the approval of the Head of the Government, to be given in a Decree on the recommendation of the Minister of Corporations

Sec 4 Special sections may be established in Corporations in which groups of persons engaged in different branches of economic activity are represented, their decision shall be subject to the approval of the Corporation.

Sec. 5. The Head of the Government may instruct two or more Corporations to be jointly convened for the discussion of questions affecting several branches of economic activity.

With regard to such questions, the Corporations in joint sessions shall have the rights conferred on each individual Corporation in the following provisions

Sec 6 The Head of the Government may issue Decrees, on the recommendation of the Minister of Corporations and after the opinion of the Central Committee of Corporations has been heard, setting up Corporative Committees to regulate economic activity in relation to specified products, and may call on representatives of the occupational groups and State Departments concerned and of the National Fascist Party to sit thereon The decisions of the above-mentioned Committees shall be subject to the approval of

the competent Corporations and of the General Assembly of the National Council of Corporations.

Sec 7 The associations grouped in a Corporation shall become self-governing in trade union matters but shall continue to belong to their respective Confederations in conformity with provisions to be issued by the Minister of Corporations

Sec 8 Apart from the functions and powers conferred upon it by the Act of 3 April 1926 No 563 and the Royal Decree of 1 July 1926 No 1130, each Corporation shall draft rules for the collective regulation of economic relations and for centralised discipline in production

A Corporation shall perform this function on the basis of a recommendation by the competent Ministers, or at the request of one of the associations grouped in it, with the approval of the Head of the Government

Sec 9 Agreements concluded under the provisions of section 12 of the Act of 20 March 1930 No 206 by the trade associations grouped in a Corporation shall be submitted for the opinion of the Corporation before being approved as required under section 11 of the present Act

Sec 10 In the branch of economic activity for which it is competent, a Corporation is empowered to draw up rates, in accordance with the procedure laid down in the second paragraph of section 8 above, for public utility supplies and services and for the prices of commodities offered to the public under privileged conditions

Sec 11 The rules, agreements and rates referred to in the preceding sections shall be submitted to the General Assembly of the National Council of Corporations for its approval and become binding as soon as they are published by Decree of the Head of the Government for inclusion in the official collection of the Acts and Decrees of the Kingdom

With regard to penalties for infringement by individuals of the said rules, agreements and rates, the legislative provisions relating to collective labour agreements shall be applied

Sec 12 A Corporation shall give its opinion on all questions in any way concerning the branch of economic activity for which it is established, whenever it is required to do so by the competent public Departments.

The Head of the Government may issue Decrees providing that

the public Departments are bound to call for opinions of the competent Corporations on specified subjects

In the decree which establishes a Corporation, or in a subsequent Decree to be inserted in the official collection of Acts and Decrees of the Kingdom, the Head of the Government may abolish the advisory committees existing in the branch of economic activity for which a Corporation is competent, whatever the nature of the provisions under which these Committees were set up

Sec 13 A Corporative shall make attempts at the adjustment in collective labour disputes through a conciliation board composed of members of the Corporation itself, to be chosen by the President for each particular case, having regard to the nature and object of each dispute

Sec 14 All provisions contrary to this Act or incompatible with it are hereby repealed

156 MUSSOLINI ON THE CORPORATIVE STATE

Mussolini has described the nature and purposes of the Corporative State several times in public addresses. These speeches are always enthusiastic about the corporate principle, and they disclose some of the theories and objectives behind the system. The following extracts are selected from them. (Benito Mussolini, *The Corporate State*, 1935, pp. 26-27, 48-50, 64-67.)

SPEECH OF NOVEMBER 14, 1933

The statement I submitted yesterday evening outlined the Corporation as we understand it and wish to create it, and also defined its purposes and aims. The Corporation, it says, is created with a view to expanding the wealth, political power and well-being of the Italian people. These three objectives are conditional each on the other.

Political power creates wealth, and wealth in its turn strengthens political action.

I should like to call your attention to the third objective set forth, the well-being of the Italian people. It is essential that these institutions we have set up should, at a given moment, be felt and perceived by the masses themselves as the means by which those masses improve their standard of life.

At a given moment, the worker, the tiller of the soil, must be able to say for himself and to his family If I am actually better off today, I owe it to the institutions created by the Fascist Revolution

In every national society poverty is inevitable

There is a percentage of people who live on the edge of society, but there are special institutions to look after them That which ought really to distress us is the poverty of strong, capable men, vainly and feverishly seeking work

It should be our wish to make the Italian workers, who interest us as Italians, as workers, and as Fascists, realize that we are setting up institutions not only to provide a form of expression for our doctrinal views, but in order that, in due course, they may yield positive, concrete, practical and lasting results

SPEECH OF JANUARY 13, 1934, ON THE LAW OF CORPORATIONS

What are its features? Or rather what are the features of corporate economy?

Corporate economy respects the principle of private property Private property completes the human personality it is a right and therefore an obligation. So much so in fact that we think it should be viewed as a social function, not inactive property, therefore, but the reverse, not property which merely enjoys the produce of wealth, but develops, increases and multiplies this produce

Corporate economy also respects private initiative It is clearly stated in the Labour Charter that the State shall intervene only when individual economy is deficient, nonexistant or insufficient An obvious example is offered by the fact that only the State, with the powerful means at its disposal, can reclaim the Pontine Marshes

Corporate economy introduces order in the field of economy If there is a phenomenon that calls for order and should be directed to a definite purpose, it is precisely the economic phenomenon, because it concerns the whole population It is not only industrial economy that should be regulated, but also agricultural economy (in easy times agriculturists have been known to go off the beaten track), commercial economy, banking and the arts and crafts

In what way should this order be enacted? Through self-discipline of the various categories concerned

It is only when various categories fail to come to an agreement, or to establish the proper balance that the State may intervene,

although the State always has undisputed power to do so, because it also represents the other aspect of the phenomenon, which is consumption. The nameless mass which forms the bulk of consumers, not being actually organized into regular bodies, must be protected by some organ voicing their collective interests.

SPEECH OF NOVEMBER 10, 1934, TO THE ASSEMBLY OF THE
COUNCIL ON CORPORATIONS

The twenty-two Corporations begin their active life today in each individual field and, as a collective body, operate through this assembly—concerned with general or political problems—which also begins life today and will, in due course, displace another institution that belongs to a phase of history now superseded.

Need it be repeated here that the Corporations are not an end unto themselves, but that they are instruments for the attainment of certain definite objects? By now, this is a well-known "fact." Which, then, are the objects? From a national viewpoint, we aim at an organization capable of gradually and inflexibly bridging the gap between the maximum, minimum and zero possibilities of life. This is what I call a higher form of "social justice."

In this century one cannot accept material poverty as inevitable; one can merely admit the sad fatality of physiological misery. Dearth, artificially provoked, is an absurdity which cannot be allowed to last, in itself dearth is a clamorous denunciation of the shortcomings of a system.

The past century proclaimed the equality of citizens before the law—a conquest carrying formidable weight—the Fascist century upholds, in fact consolidates, this principle, but adds another which is none the less fundamental. the equality of men before work, understood as a duty and a right, as a creative joy that broadens and ennobles existence, rather than mortifies or depresses it. Nevertheless equality does not exclude but indeed requires a clear distinction of hierarchy where functions, merits and responsibilities are concerned.

From a foreign standpoint the object of the corporation is to increase the sum total of national forces, with a view to expansion in the world.

157. THE TWENTY-TWO CORPORATIONS AND THEIR COUNCILS

The economic life of Italy is organized in twenty-two Corporations. Workers are grouped in local or communal syndicates, provided there are at least thirty persons engaged in the same occupation within one commune. These local syndicates function collectively as National Federations. The various Federations working in one field, such as agriculture, are further grouped into Confederations. Employers are also organized on a national basis. In the Corporation, workers and employers are brought together for the general purpose of managing a given economic enterprise. Following is a list of existing Corporations, and the composition of the Councils of two of them (Benito Mussolini, *The Corporate State*, 1935, Appendix, pp 239-41)

Eight Corporations for cycles of production embracing agriculture, industry and commerce

- 1 Corporation of Cereals
- 2 Corporation of Fruit, Vegetables and Flowers
- 3 Corporation of Viticulture and Wine
- 4 Corporation of Sugarbeet and Sugar
5. Corporation of Edible Oil
- 6 Corporation of Livestock and Fisheries
- 7 Corporation of Forestry, Lumber and Wood
- 8 Corporation of Textiles

Eight Corporations for cycles of production embracing industry and commerce:

- 9 Corporation of Metal and Engineering
- 10 Corporation of Chemical Trades
- 11 Corporation of Clothing Trades
- 12 Corporation of Printing, Publishing and Paper
- 13 Corporation of Building Trades and Housing
- 14 Corporation of Water, Gas and Electricity
- 15 Corporation of Mining and Quarrying
- 16 Corporation of Glassware and Pottery

Six Corporations covering occupations productive of services

- 17 Corporation of the Arts and Professions, comprising four sections, legal professions, medical professions, technical professions, the arts
- 18 Corporation of Inland Transports, comprising four sections railways, tramways and inland navigation, transports by motor, traffic auxiliaries, communications by telephone, radio-telephony
- 19 Corporation of Sea and Air Transports
- 20 Corporation of Hotel Industry
21. Corporation of Credit and Insurance, comprising three sections banks, savings banks and public institutions, insurance
- 22 Corporation of Entertainments

COMPOSITION OF THE COUNCILS

Corporation of Cereals—The Council consists of a President and 36 members as follows

- 3 representatives of the National Fascist party
- 7 employers and 7 workers representing cereal growers
- 1 employer and 1 worker representing threshing industries
- 3 employers and 3 workers representing milling, rice-dressing, edible paste and confectionery
- 1 employer and 1 worker representing baking industries
- 3 employers and 3 workers representing commerce in cereals and their products
- 1 representative of cooperative societies of consumers
- 1 representative of agricultural experts
- 1 representative of small industries (artisan)

The total number of employers includes 3 representatives of persons managing agricultural, industrial and commercial concerns

Corporation of Fruit, Vegetables and Flowers—The Council consists of a President and 32 members, as follows

- 3 representatives of the National Fascist party
- 6 employers and 6 workers representing market gardeners, fruit growers and horticulturists
- 2 employers and 2 workers representing canning and preserving industries

- 2 employers and 2 workers representing citrus byproducts and essential oils
- 3 employers and 3 workers representing commerce of fruit, flowers and vegetables
- 1 representative of agricultural experts
- 1 representative of chemical experts
- 1 representative of exporters of fruit, flowers and vegetables

The total number of employers includes 3 representatives of persons managing agricultural, industrial and commercial concerns

158 THE CORPORATIONS AT WORK

Since 1935, the Corporative State in its completed form has been a reality. With the system put to the test, it is interesting to examine the manner in which it operates in practice. The extract below is a description of the functioning of the Corporation for Beets and Sugar, which consists of a president and the following fifteen members:

Three members of the Fascist party

Two representatives of employers and two of employees in the beet growing industry

One representative of employers and one representative of workers in sugar—manufacturing industry

One representative of employers and one representative of employees in alcohol industry

One representative of employers and one representative of employees in distributing trades in sugar and alcohol

One representative of independent agricultural experts

One representative of independent chemical experts

(Odon Por, "The Italian Corporations at Work," *International Labor Review*, XXXV, 1937, pp. 657-61.)¹

The agenda of the Corporation's Second Session, held on 22 and 23 October 1936, was [sic] as follows:

- 1. fiscal provisions relating to sugar
- 2. relations between the sugar-manufacturing and sugar-consuming industries

¹ Reprinted by permission of the *International Labor Review*, Geneva

- 3 control of beet-growing
- 4 economic agreements for the sugar trade
- 5 fuel alcohol

In his opening speech, the Vice-President of the Corporation recalled the fact that all the resolutions adopted at the First Session had been carried into effect either by legislation or by agreements concluded between the associations. He also pointed out that the producers represented in the Corporation had succeeded in considerably increasing the output of fuel alcohol. A lively discussion arose in regard to the import duty on sugar.

The Federation of Manufacturers of Sugar, Confectionery and Allied Products and the National Consortium of Sugar Manufacturers jointly maintained that the existing import duty on sugar should continue to be levied for an indefinite period and that the amount should be fixed from year to year at a level which would protect producers against a probable fall in foreign prices.

In support of this implicit request for a more substantial measure of tariff protection, the two organisations pointed out that it need not give rise to any anxiety in regard to the home market, for since 1926 the sale price of sugar had always been regulated seasonally by the Government, not indeed with reference to developments in the foreign market but according to the opportunities for national production. They asked, on the other hand, that the sale price of sugar should be fixed, as in the past, for each season, since as is well known the factors entering into the cost of sugar may vary from crop to crop. They proposed that Italian sugar should be protected in Libya and Italian East Africa. . . .

The Confederation of Agriculture was in complete agreement with the arguments advanced by the manufacturers. These were also supported by the Confederation of Agricultural Workers.

The Confederation of Industrial Workers, on the other hand, saw no reason for changing the existing system which afforded the possibility of adjusting the sugar duty at any time to fluctuations either in the international or in the home market. In reply to the manufacturers' assertion that the whole burden of previous reductions in the price of sugar had been borne by the industry, the industrial workers referred on the one hand to the decrease in the cost of the raw materials used and in wages, and on the other to the advantages derived from improvements in industrial technique.

The Confederation of Commerce likewise agreed that the exist-

ing practice of fixing the tariff duty on sugar annually should be continued, this being a means of inducing Italian manufacturers to lower their costs of production. The latter Confederation held that a further decrease in the manufacturing duty would be justified, since the last decrease made in response to the wishes of the Corporation had led to a 2.46 per cent rise in the consumption of sugar. This afforded sufficient evidence that the provision was a sound one. Finally, while agreeing to the proposal that colonial import duties on foreign sugar should be raised, the Confederation of Commerce proposed that the import duty levied in the colonies on Italian sugar should be lowered, this would protect Italian sugar without increasing the cost of living in the colonies.

The Confederation of Commercial Workers, on the other hand, was in favour of stabilising import duties. It recommended that these should be kept at a moderate level and that the whole tariff problem should be reviewed with reference to costs of production.

The Corporation, since it had not sufficient information available to enable it to decide what would be a fair price for sugar, confined itself to adopting a resolution to the effect that the validity of the Decree then in force and expiring on 31 October concerning the import duty on sugar should be prolonged for a further period, and that the tariff regime then applying in Italy should be extended to Italian East Africa. The discussion of the fiscal provisions relating to sugar was adjourned until further experience of the measure introduced by the Ministerial Decree of 4 July 1935 (which, as has been seen, lowered the duty) had afforded a more definite indication as to what line should be followed in future.

The Corporation, however, did not close the discussion on this subject when it adopted the resolution mentioned above. On the contrary, it opened a further debate which is perhaps the most important that has so far taken place in a Corporation. While all the organisations belonging to it agree as to the necessity and expediency of according sufficient protection to the sugar industry, the Corporation has asked for an opportunity to investigate all the conditions affecting the production of sugar in order that it may determine the extent of that protection.

In this connection, the representatives of the industrial workers laid stress on the need for control throughout the sugar industry, and submitted a resolution which, in substance, subsequently took

the form of a decision to set up a Technical Committee on sugar-production costs

The representative of the beet growers did not in principle object to investigations into price-fixing, provided these were confined to the 1937-1938 season. He suggested, however, that if the beet crop were to be increased, the price of the commodity would have to be known in good time.

The representative of the National Consortium of Sugar Manufacturers did not think that, for the time being, any effective action could be expected from the Corporative Committee dealing with production, costs and sale prices.

Mr Lantini, Minister of Corporations and President of the Beet and Sugar Corporation, then summed up the views expressed in the course of the discussion regarding the powers and duties to be assigned to the proposed Corporative Committee. He referred to the suggestion made by the workers' representatives that this Committee should be requested to consider among other things the relations between sugar manufacturers and the sugar-using industries. He proposed that the Technical Corporative Committee should be asked to investigate relations between the various branches of the sugar industry and the sugar trade as a whole.

This comprehensive proposal made by the Minister was then unanimously adopted in the following form.

In view of the important part played by the sugar-producing industry in the economic system as a whole, due regard being had to the special conditions under which that industry operates;

And whereas it is necessary to reduce costs of production to the lowest possible level in order to secure the maximum increase in the consumption of a commodity which is of so great a nutritive value and is capable of considerable further development, whether in respect of direct consumption or of the consumption of commodities of which sugar is one of the principal ingredients;

The Corporation proposes that a Corporative Committee, in the meaning of section 6 of the Act of 5 February 1934 (No 163), be appointed to regulate economic activities relating to the production of sugar.

159 LAW REFORMING THE NATIONAL COUNCIL OF
CORPORATIONS

The National Council of Corporations, which is the highest deliberative organ of the corporative system, was altered by the law of October 8, 1938. The text of that law is given below ¹

THE NATIONAL COUNCIL OF CORPORATIONS

Article 1 The National Council of Corporations is composed of

- (a) The members of the Central Corporative Committee
- (b) The active councillors of the Councils of the Corporations, which are described in the first paragraph of Article 3

Art 2. The Central Corporative Committee is composed of

- (a) The Ministers and Undersecretaries of State
- (b) The Vice-Secretaries and the Administrative Secretary of the National Fascist Party
- (c) The representatives of the National Fascist Party in the corporations, who act as vice-presidents therein
- (d) The presidents of the Syndicated Confederations of Employers, of employees, of members of the professions or trades, and of the President of the National Fascist Unit (Body) on Cooperation

Art 3 The Councils of the Corporations are composed of active Councillors named to represent the National Fascist party, the Professional Associations, and the National Fascist Unit (Body) on Cooperation, to the number provided for every corporation

A part of the Councils of Corporations is to be formed from assembled councillors who are to have a deliberative vote, and who are to be appointed upon the nomination of the professional associations and of the other groups or units, to the number provided for every corporation. The Corporations thus composed are to exercise the functions pertaining to them in accordance with regulations now in force

Art 4 The head of the government, in order to carry out the plans of corporative action with respect to problems of production and

¹ *Il Popolo d'Italia Milano*, October 8, 1938

to the ends of corporative regulation, may summon to a general assembly of the corporations

- (1) the members of the National Council of Corporations and
- (2) the councillors added to the Councils of the individual Corporations

Art 5. The Government of the King is authorized under the rules of integrations—art. 3, no 1 of the law of Jan 31, 1926, no 100, —to carry out the present law and to proceed to the revision of the law of March 20, 1930, no 206, on the National Council of Corporations and of the law of February 5, 1934, no 163, on the Corporations,

CHAPTER XXVI

POLITICAL AND SOCIAL PROBLEMS

160 PUBLIC OPINION AND PROPAGANDA

FASCIST and communist dictatorships have constantly utilized propagandist activities to strengthen the foundations of their authority. Newspapers, the radio, the cinema, periodicals, and other vehicles of opinion, if left unfettered, may voice criticism and lead to organized opposition. Under the control of the state, however, they strengthen the arm of the regime in power, winning support by persuasive means and obviating the need for more ruthless methods

Italian propagandist activities have been particularly thorough. Soon after the March on Rome in 1922, they were begun in a moderate way, to be improved rapidly after 1924. Even now changes in technique are constantly being introduced. The system as it operates today is described in the following article (Arnold J. Zurcher, "State Propaganda in Italy," in *Propaganda and Dictatorship*, Harwood L. Childs [Ed.], 1936, pp. 36-53) ¹

In mobilizing the dictatorship over opinion, the Fascists directed their attention first of all to the daily press. The process of coordinating this institution began with the famous decree of the

¹ Reprinted by permission of the author and of the Princeton University Press, Princeton, N. J.

summer of 1924 by which prefects were authorized to confiscate issues of newspapers which contained false, tendentious or misleading information, or information calculated to inspire class hatred or bring the government into contempt. Two years later a licensing system was formally introduced. Every daily journal in Italy was required to secure permission to publish from the royal procurator.

In order still further to extend control of the press, Fascism proceeded to regiment the journalists. The free press associations of the liberal period were all dissolved by October 26, 1925. Two months later, it was decreed that journalism was henceforth to be a quasi-public profession, like medicine or law, to be practised only by those whose names appeared on registers approved by the government.

Controlled in this manner, the Fascist press has become the most monotonous and servile in Europe. All vitality and independence have vanished and it has been transformed into an instrument to be used by the government for educational, moral and political purposes. From Piedmont to Calabria, it plays the tune favored at the moment by the authorities. Editors and compositors wait upon the press instructions which come at regular intervals from the Press Bureau of the head of the government at Rome. Press directions issue also from the party press bureaus and occasionally, it is rumored, from the *Palazzo Venezia* itself.

The lowly cinema is another instrument in the control of which the Fascist propagandist has become particularly interested. An institute known as *L'Unione Cinematografica Educativa*, or more familiarly, as *LUCE*, was created in 1926 to produce films and official photographs. The films serve as short topics in Italy's 3,800 moving picture houses, each of which is required by law to show such a film as part of the daily program. *LUCE* also has a monopoly of all the cinema and photographic activity of the government departments. The subjects of the films produced by *LUCE* include national and international events of importance, the activities of Fascism, Italian enterprise abroad, agrarian, industrial, cultural, tourist, military and hygienic subjects.

Still a third medium of communication especially favored by Fascism for propaganda is the radio. Unlike press or cinema, this medium did not have to be taken over from private owners and co-ordinated with the regime for it has belonged to the govern-

ment from the beginning At present, broadcasting rights have been transferred to a quasi-public corporation known as the *Ente Italiano per le Audizioni Radiofoniche* which, in 1927, secured a concession for twenty-five years from the Minister of Communications This company, successor to an earlier concessionaire, the *Unione Radiofonica Italiana*, is authorized to issue stock up to ten million lira to Italian citizens and corporations, and is required by its charter to use principally Italian talent in its broadcasts .

Despite the favor shown it, radio has not been a particularly effective propaganda medium In part this has been due to inadequate and improperly developed broadcasting and reception facilities As late as 1929, the *Ente* had only six major broadcasting stations, the principal one being a sixty-kilowatt station at Milan .

Another active propagandist organization among Italian workers is the *Opera Nazionale Dopolavoro*, or Fascist Leisure Time Organization, established in 1925 ostensibly to dispense cultural, hygienic and material benefits to its membership Its primary purpose is best revealed by Signor Achille Starace, Secretary of the Fascist party, who states that *Dopolavoro* was organized to "educate the individual morally and physically always in the supreme interest of the national society" Its various local institutes have grown from somewhat more than a thousand in 1926 to almost eighteen thousand in 1932 and its membership has increased to more than one and one-half millions

Although not the most pernicious effect of the propagandist upon the public schools of Italy, certainly the most startling is the Fascist revision of the Italian textbook As early as 1928 it was decreed that textbooks in history, economics and law and the elementary readers should thenceforth accord with the "historical, juridical and economic requirements established since October 28, 1922," the date of the "March on Rome" To carry out the decree, a commission was appointed to examine existing books and issue an approved list

To secure an even more direct and comprehensive control over the training of Italian youth, Fascism has supplemented its public school system with an elaborate national youth organization known as the *Opera Nazionale Balilla* At present it consists of the *Balilla* proper for boys between the ages of eight and fourteen, the *Avanguardisti* for boys between fifteen and eighteen, the *Piccole Italiane*

for guls from eight to fourteen and the *Giovani Italiane* for girls from fifteen to eighteen . . .

These youth organizations, like the schools, fall within the jurisdiction of the Ministry of Education, their president being one Renato Ricci, an Undersecretary of that Ministry. Elementary school teachers are usually the recruiting officers for *Balilla* and *Avanguardisti*, Fascist Militiamen serve as instructors and leaders. The ranks of the boys' organizations have the names of units of the classical Roman army. Both girls and boys wear uniforms and observe a military discipline, and occasionally even the most youthful are trained with ordnance.

Despite their monopoly of the sources of information and of the means of instruction, the strategists of Fascist propaganda have not forgotten the arts of persuasion. Of first importance to their repertoire is the Fascist mythos, the articles of faith and doctrine to which Fascist apologists have more or less consistently adhered during the past dozen years. These have included the consummation of Italian autarchy through such policies as agrarianism, reclamation, electrification and protection for industry, the perfection of the institutional features of Fascism such as the corporate state, and the increase of national power through military preparedness, increased fecundity, decreased emigration, colonization and diplomatic prestige.

The articles of faith and doctrine are exploited in every form of pedagogical, literary and oratorical activity, and they serve for premise, proof or text as necessity may require. The autarchy campaign resolves itself into "battles of wheat" and "battles of rice," into vast drainage schemes and irrigation projects and "back-to-the-land movements." It justifies the rise in price levels and the lowering of wage scales.

A favorite tactic of the Fascist propagandist is to assert formidable and theatrical claims and imply thereby supreme confidence in himself and the regime. It is a part of that strategy of bluff which he has used so successfully on the international stage. The strategy is equally effective when used internally .

161. FASCISM AND THE CHURCH

When Mussolini came into power in 1922, relations between the Church and State were already strained. Since

1870, when the temporal powers of the pope were brushed aside in the movement for Italian unification, the popes had isolated themselves from Italian politics. The law of Papal Guarantee (1871) was not acceptable to the Church and never received papal recognition. For fifty-nine years the popes were self-made prisoners in the Vatican, refusing to set foot on Italian soil. As dictator, Mussolini was anxious to have the support of the church in Italy, and therefore entered into negotiations with the pope to settle their outstanding problems. A political treaty, a concordat, and a financial agreement were concluded in 1929. Extracts from these documents are given below. While these treaties recognize the pope as a temporal sovereign over 106 acres of land and in other ways solve problems which had been outstanding, they have not ended the conflict of Church and State in Italy. The last extract describes some of the more recent aspects of the problem (*British and Foreign State Papers*, CXXX, Part I, 791-814).

A THE POLITICAL TREATY

Article 1 Italy recognises and reaffirms the principle embodied in article 1 of the statute of the Kingdom dated the 4th March, 1848, according to which the Roman Catholic Apostolic religion is the sole religion of the State.

Art 2 Italy recognises the sovereignty of the Holy See in the international domain as an attribute inherent in its nature and in conformity with its traditions and the requirements of its mission in the world.

Art 3 Italy recognises the full ownership and the exclusive and absolute dominion and sovereign jurisdiction of the Holy See over the Vatican, as at present constituted, together with all its appurtenances and endowments, by this means is created the Vatican City for the special purposes and under the conditions prescribed by the present treaty. The boundaries of the said City are indicated in the plan forming annex I to the present treaty, of which it forms an integral part.

Art 4 The sovereignty and exclusive jurisdiction over the Vatican City, which Italy recognises as appertaining to the Holy See,

precludes any intervention therein on the part of the Italian Government and any authority other than that of the Holy See

B THE FINANCIAL AGREEMENT

Article 1 Italy undertakes to pay to the Holy See, upon the exchange of ratifications of the treaty, the sum of 750,000,000 Italian lire, and at the same time to hand over to the Holy See Italian 5 per cent Consolidated Bearer Stock, with coupon payable on the 30th June next, to the nominal value of 1,000,000,000 Italian lire

Art 2 The Holy See declares that it accepts the foregoing in final settlement of its financial relations with Italy arising out of the events of 1870 .

C. THE CONCORDAT

Article 1 In accordance with article 1 of the treaty, Italy shall assure to the Catholic Church the free exercise of spiritual power and the free and public exercise of worship, as well as of its jurisdiction in ecclesiastical matters, in accordance with the provisions of the present concordat. Where it is necessary Italy shall afford to ecclesiastics the protection of her authorities for the acts of their spiritual ministry

Having regard to the sacred character of the Eternal City, the Episcopal See of the Supreme Pontiff, the centre of the Catholic world and the goal of pilgrimages, the Italian Government shall adopt measures to prevent in Rome all that may conflict with that character

Art 2 The Holy See shall communicate and correspond freely with the bishops, the clergy and the whole Catholic world without any interference on the part of the Italian Government

Similarly, so far as concerns their pastoral ministry, the bishops shall communicate and correspond freely with their clergy and with all the faithful

Art 19 The selection of archbishops and bishops shall appertain to the Holy See

Before proceeding to the appointment of an archbishop or diocesan bishop or coadjutor cum jure successionis, the Holy See shall communicate to the Italian Government the name of the person selected in order to ensure that the latter have no objections of a political nature to such appointment. . . .

Art 36 Instruction in Christian doctrine according to the form accepted by Catholic tradition is regarded by Italy as the foundation and crown of public instruction. She therefore agrees that the religious teaching now given in the public elementary schools shall be further developed in the secondary schools according to a programme to be settled between the Holy See and the State.

This instruction shall be given by means of teachers and professors, priests or members of religious orders, approved by the ecclesiastical authorities, with assistance from lay teachers and professors, who shall for that purpose be furnished with a certificate of qualification issued by the ordinary of the diocese.

The revocation of this certificate by the ordinary shall forthwith deprive the teacher of the capacity to teach.

Only text-books approved by the ecclesiastical authorities shall be used for such religious teaching in the public schools.

D CURRENT RELATIONS OF CHURCH AND STATE

(Max Ascoli, "The Roman Church and Political Action," *Foreign Affairs*, XIII, April, 1935, 447-49) ¹

By the Lateran Treaties the Church obtained far more than it would have been reasonable for her to demand in negotiations with previous Italian governments, but this time she could offer the recognition not only of the Kingdom of Italy but of the new Fascist state. It would be idle to repeat here the long enumeration of what the Church gained. What is more important to note is that the Church obtained more in the legal documents than in actuality. It became a law of the state that marriages among Catholics be celebrated and ruled according to the Canon Law, the Church was thus given a powerful instrument for exerting her influence upon Catholic families. Religious education was extended to the secondary schools and entrusted to the Church. Those who were or had been members of the clergy were left under the jurisdiction of the Church, with different legal rights from those of the other citizens. This difference becomes a heavy impairment of the rights of unfrocked priests, who are forbidden to teach or to be in any way in contact with the public as state civil servants. There is even an article which guarantees the enforcement on Italian soil of disciplinary sentences upon those subject to Catholic discipline.

¹ Reprinted by permission of the author and of *Foreign Affairs*, New York

Many of these legal obligations have not received literal enforcement. Many professors who formerly were priests still teach in the universities or in the secondary schools. The Church's influence on the family and on the education of young people is far from being untrammelled. But the special situation of the clergy and other Church privileges have received formal recognition. In other words, the Church has been given a note which she will sometime cash. Since the days of Constantine, she has known how to treasure legal documents showing her right over kingdoms and territories; now she can also hoard legal rights over occupations and functions for future use. A few clods of earth suffice today to give a visible symbol to sovereignty, as the Vatican City proves, but the real fight tomorrow will turn on the control of occupations and functions. In an era of exasperated nationalism the Church has perhaps offered a solution for the evanescence of sovereignty in symbols, such as the theorists of pluralism never dreamt of.

On the other hand, by giving the Church pledges which have been partially observed, Mussolini has followed a policy in which he has been consistent since 1925. He wants to store up underground all the forces which endanger the Italian state, so that a strong authoritarian government will be necessary for a long time. . . . The Church has been given rights to influence the family and the educational system and to organize an incorruptible, all-pervasive clergy, but against the Church the Fascist government has erected the barrier of the last as if—as if the Fascist state were a liberal state hundreds of miles distant from the Vatican City (to use Mussolini's words), as if the two protagonists were not face to face, one of them enriched in prestige and in legal rights, the other ready to prevent by violence the literal enforcement of its own laws. A few weeks after signing the Vatican treaties, Mussolini created, with his forceful public opposition to clerical aspirations, the last barrier between Italy and the Vatican. It is a thin, sharp frame, and stands because it is buttressed by his physical person.

But the sharp dissent of the summer of 1931 burst out, with Fascist violence against Catholic institutions, followed by the harsh indictment of Pius XI against Fascist paganism, then the sudden silencing of the quarrel, and finally the agreement of September 2, 1931, in which the Catholic Action was allowed to organize "recreative and educational meetings with religious purposes."

The quarrel of 1931 was perhaps even more significant than the

Lateran Treaties The Fascist state and the Vatican realized that they were obliged to be silent, patient and peaceful Close as they are, the hand of the one is too near the throat of the other As in the period of the Law of the *Guarantigie*, and even more than then, forms and appearances have to be respected Catholics have to go slowly and carefully, avoiding setting up anything resembling a political party line, the Fascist god is a jealous one

162. ECONOMIC SELF-SUFFICIENCY

The main objective of the corporative state is economic self-sufficiency By regimenting Italy's economic activities, Mussolini expects to provide encouragement to weak industries and to start the production of commodities ordinarily imported Substitutes are sought for goods whose production at home is impossible or expensive The end in view is, of course, state power

While five-year plans have not been inaugurated in Italy, a steady drive toward self-sufficiency has been in motion for more than a decade Endowed with little natural wealth, Italy's problem is difficult and challenging The extract below is taken from a speech by Mussolini to the National Assembly of Corporations, on May 15, 1937. In it he discussed the achievements claimed thus far Although it assumes the optimistic tone characteristic of the addresses of the dictators, it admits that there are serious obstacles to complete self-sufficiency (Benito Mussolini, *The Corporate State*, 1935, pp 88-100.)

Comrades,

How do we stand with regard to that design for regulating Italian economy, which I traced in my speech of the 23rd of March XIV in this hall, and to which I refer those who, in the meantime, may possibly have forgotten it? The design tended and tends towards one aim and end alone, that of the maximum economic autonomy of the nation, a necessary premise and a fundamental guarantee of its political independence and of its strength.

Let us proceed, therefore, to a bird's-eye view, in order to see how much remains to be done

We will begin with the subsoil, and especially with solid fuels. Coal of fine quality has not yet been found in Italy. But there are some hundreds of millions of tons of excellent coal which can and must replace in very many ways coal from abroad. The coal which the A. C. A. I. is mining in the valleys of Istria and Sardinia has met with general favour. The production of this year alone will exceed a million tons, but we are aiming at reaching—and we shall reach at least four million tons, that is, one third of the total yearly consumption which is estimated at between ten and twelve million tons.

In this sector, even if we electrify all the railways, we shall probably not reach complete self-sufficiency. But we need not feel anxiety as to this, because there will always be one nation, or many nations, ready to supply our remaining requirements as regards coal.

From coal we will pass to iron. Let me remark that our metal industries rely too much on scrap-iron from abroad, which comes to us chiefly from the Western nations, or which, indeed, does not come to us at all, or only at prohibitive prices, according to the humour of the moment prevailing in those countries.

A metal industry which depends for 50 per cent. of its raw materials on other people's scrap-iron is an artificial industry which will break down at the very moment when it is most needed. It is enough to recall that in 1935 more than a million tons of scrap-iron were imported, and that the amount fell to 400,000 tons in 1936.

To comfort ourselves, I will add that the national output of iron is increasing. From 551,000 tons in 1935 we have risen to 900,000 tons in 1936, and we shall reach 1,100,000 tons this year. This means that the metal industry is advancing towards self-sufficiency, that is, it is making the maximum use of the national resources in iron. . . .

Our resources in iron are relatively modest if we compare them with the resources of other nations, but they are sufficient for our needs over a long period of time, even if the actual production is doubled, as it will be.

To the minerals we must add pyrites. In 1937 a production of 900,000 tons is foreseen, which will give 500,000 tons of iron, at 50 per cent. During the great war, Italy was self-sufficient as regards manganese for 30,000 tons. In 1934 we had descended to about 7,000 tons.

The A M M I has recommended its researches, and its usual monthly report informs me that in the island of San Pietro and on the western coast of Sardinia there is a notable quantity of manganese. Ten workshops have been erected and a plant capable of extracting 350 tons daily, which will subsequently increase to from 1000 to 1500 tons. This latter figure will cover the larger part of the national requirements.

The work of seeking for and extracting nickel in the upper valleys of the Novara province is exceedingly difficult. Roads, overhead cables and tunnels have all been made at a level of over 2,000 metres. The results are such as to justify the construction at Varallo Sesia of a first plant for treating this metal.

Copper is being worked in the "S A Duchessa" area in Sardinia, but it is too soon to pronounce on the results.

On the other hand, we are certain as regards tin. The mines of Montemannu in Sardinia, and above all those of Monte Valerio in the province of Leghorn will soon give us complete self-sufficiency for our needs both in peace and in war.

Our resources in bauxite and leucite are unlimited. Thus we can supply the national need for aluminium, and also export it.

The production of aluminium has passed from 14,000 tons to 20,000 tons. The same may be said for lead and zinc.

Together with this last, magnesium may become a typically Italian metal. The Italian resources in magnesium are practically inexhaustible.

With regard to liquid fuels, since last year a novelty has appeared on the scene. The creation of the National Institution for the Hydrogenization of Fuel, a semi-private semi-governmental concern, to which I referred previously. This Company is constructing at Bari and at Leghorn two large plants which will treat Albanian oil and lignite by an extremely up-to-date technical process.

Sig. Benni assures me that "by the second half of 1938, we shall have attained complete autonomy in oil and lubricants."

I said last year that we should soon have national cellulose. The factories at Mantua, Tolmezzo and Foggia are already operating, others are planned.

It is possible to reduce the import of cellulose to zero, and it must therefore be done.

For the production of rubber, we propose to cultivate guayule. But experiments in producing synthetic rubber are already so far

advanced that a company of the governmental-private type is on the point of securing, also in this field, complete self-sufficiency.

The march towards this supreme objective has been rapid and decisive as regards textiles. We have arrived at national textiles. Shortsightedness, diffidence, scepticism, and certain doubtful manoeuvres of persons interested have all vanished after the exhibition at Forlì, which will be followed by the Exhibition in Rome. The Italian optimism of experimentalists and industrialists has triumphed under the stimulus of duty toward the nation and of necessity.

In a world such as the present one, armed to the teeth, to lay down the weapon of self-sufficiency would signify tomorrow, in case of war, to put oneself at the mercy of those who possess everything necessary to make war without limits of time or consumption.

Self-sufficiency is therefore a guarantee of that peace which we fervently desire, and it is a hindrance to the eventual aggressive intentions of richer countries. Anyone who has run the risk of being strangled by war knows what to think and what to do.

With regard to this question, no hesitation is admissible because it would be fatal.

It is a question of rendering secure the life, the future and the power of that great people which is the Italian people.

163 AGRICULTURE UNDER FASCISM

It must be remembered that Italy is overwhelmingly an agricultural country. Forty-six per cent of all Italian wage earners live on the land. Yet Italy has great difficulty in feeding her forty-four millions of population, for her area is small (119,745 square miles) and her soil has been depleted by constant cultivation. Nevertheless, driven by the economic nationalism of the Fascist regime, agriculture in Italy has striven mightily to do its part to free the country from dependence upon foreign sources of food. In 1925 began the famous "battle of wheat," an effort to increase the production of that commodity to meet domestic requirements. This concentration upon the production of wheat has disturbed the agricultural economy of the country by changing land uses and by reducing the production of livestock. Land reclamation has been a

major concern. Some aspects of these problems are discussed in the selection below (Basil Davidson, "Agriculture under Fascism," *Contemporary Review*, CLIV, 1938, 197-204) ¹

Foreign observers of the "battle for grain" which for eight years was fought ostensibly to release Italy from the "slavery" of imports, have found its merits debatable. The battle has now taken another lease of conflict in line with the self-sufficiency drive. On the general position of agriculture its effects remain highly important. Ghino Valenti, a classic Italian agriculturist, respected by both Fascists and dissenters, wrote in 1914 that healthy equilibrium would be established in Italian agriculture when the wheat area of 4,700,000 hectares then being sown, and producing 50 million quintals, was reduced to 3½ million hectares yielding with improved technique 70 million quintals, the land thus freed being given over to stock-raising. This, he thought, would provide the Italians with their needs and enable them to export "the special products of Italy's soil and climate." In 1920, perhaps in view of the greater population, Valenti enlarged the area he thought should be under wheat to about 4 million hectares, and Signor Serpieri recorded himself in agreement. In 1936, eleven years after the initiation of the "battle," an area of 5,137,000 hectares produced only 61 million quintals, admittedly a bad harvest, but proving that to give Italy her average annual needs (calculated by Serpieri at some 85 million quintals) it must be possible to reap in a good year up to 100 million quintals. Nineteen thirty-seven is claimed to have produced on an area not less than that of 1936 80 millions, fêted as a bumper harvest, and yet in November last a decree made it binding on all bakers to use a standard 10 per cent of maize with their bread, and officially inspired publications spoke openly of the leguminous materials also used. A tentative estimate would put the proportion of wheat flour used in commercially baked bread to-day at 70 per cent, perhaps rather less. And in no year has Italy been able to dispense with imported wheat. This is enough to show that the "battle" is nothing like won, nor can be won without a large extension of area under plough.

By dint of coercion backed up with propaganda for improved technique (fertilisers, selected seed, sowing in rows, machinery, competitions) annual production has indeed been increased. In

¹ Reprinted by the permission of the *Contemporary Review*, London

the years 1910-14 an average area of 4,760,260 hectares yielded an average annual harvest of 48,700,000 quintals or 10.2 quintals per hectare. For the years 1932-36 these figures had increased to 5,027,000 hectares producing 71,625,000 quintals, or 14.3 quintals per hectare. By high tariff protection the internal price of wheat has been maintained far above the general world level, something the working man knows all about. Estimates of the public money spent on promoting the "battle" vary from 125 millions of lire to 225 millions.

Upon the numbers of Italian livestock the "battle" has had a disastrous effect, particularly on sheep stocks, which none of the various livestock commissions and high intentions embarked upon by Government has been able to avert. Writers for thirty years have been lamenting Italy's poverty in livestock, and things had commenced a little to improve before the initiation of the "battle." Since then they have been rapidly worsening. From the early years of the century there has been a slight increase in the per capita consumption of meat, but it still bulks very small in the daily ration—in 1929 a Fascist writer calculated it at 5½ per cent. An illuminating example of the conditions which now obtain can be seen in Puglia. Until some years ago some half-million sheep had winter pasture on the hills around Foggia, moving for the summer, since grass will not grow in Puglia after the middle of June, to the heights of the western Abruzzi. To-day those sheep have disappeared and wheat is being grown around Foggia while the lonely pastures in the Abruzzi, fit for no other employment, lie unused. "The battle for grain is a policy only of to-day," a small landowner in the south of Italy remarked to me, "it has neither justification in the past nor any future. Its only excuse is political."

The emphasis on immediate political needs extends beyond the "battle for grain" to that other magnum opus, the *bonifica integrale*, best translated as land reclamation. The parliaments of united Italy which carried on the good work of drainage and irrigation in process since the Middle Ages did not always spend their money to the best advantage, still they put under cultivation large tracts of once useless land. Reclamation has been in the forefront of the Fascist land policy and a vast amount of good work has been executed, albeit at a vast cost. Apart from fine performances such as the improvement of the *Campagna romana* and the settling of the Pontine Marshes, land has been reclaimed in most provinces

of Italy, with or without the active co-operation of local land-owners. The Mussolini Act of 1928 provided for 43 thousand million lire being spent by the Government and a further 27 thousand million lire by landowners (under threat of expropriation), in the next fourteen years. Enthusiasm flew to fever-heat. Forecasts predicted colossal results. The whole of Italy would smile with bumper crops in ten years' time. Alas, the fourteen years which were at first declared all the time necessary for reclaiming the whole of Italy, soon lengthened into many decades. It became clear that far larger sums than those ear-marked would be needed. Until 1935, however, a very large sum of money from public and private sources was spent on reclamation, by then it was admitted that this was a work of long and laborious expenditure.

The Fascists declare themselves ready to be judged on their land policy by the results of land reclamation and the "battle for grain", if one cannot find these results consonant with good farming or good economics, still the criticism should take notice of the unquestionably good work done in quieter fields. It is unfortunate that such high figures for reclamation should have been aimed at in the early years. "Mistaken people have said that agriculture needs credit," wrote Valenti in 1914, "while they ought to have said that it needs capital, which is a very different thing." No longer is there any private capital available. The "battle for grain" has done a great deal of harm and good only so far as yields have been increased on the restricted wheat lands of the north. Although the régime has recognised that a basic problem its land policy is called on to solve is how to absorb the day-labourer into the ranks of the peasantry possessing land or tenancy, the land-hunger of the *bracciante* remains unfed—except that his voice is no more heard in the land. His wages have been diminishing for years, otherwise he is in much the same condition as he always was. If he is a better Fascist to day it is because his hopes are centred on Abyssinia.

A policy of to-day which leaves the morrow to fate is implicit in the hurried reclamation expenditure and admitted in the "battle for grain", it has received emphatic support in the self-sufficiency campaign. Tightening corporative organisation and stricter disciplining of production for political ends leaves an Italian agricultural economy, isolated within itself, to develop not according to the canons of good farming which will make the best of home and foreign markets, but to struggle impoverished for products better

and more cheaply grown elsewhere Italian agriculture, in short, is conscripted for the crisis of to-day.

164 FOREIGN POLICY

Under the Fascist dictatorship Italy has become more active in European and world diplomacy. On several occasions her vigorous policies have alarmed the world and made a general war appear imminent. There is little reason to believe, however, that Italy wants war, for a war is always a threat to a dictator's position and to the work of domestic reorganization which he is compelled to undertake.

For every nation there are certain conditions—geography, economic position, population pressure, or history—which fix the major lines of its foreign policy. For Italy her position in the Mediterranean, her large population living within a small territory which is lacking in essential resources, her proximity to large and powerful neighbors, and the failure of her government to obtain new territories at the Paris Conference of 1919, furnish the background for the specific policies pursued. The following article is a discussion of some of these factors by a former Italian foreign minister (Dino Grandi, "The Foreign Policy of the Duce," *Foreign Affairs*, July, 1934, pp. 553-64).¹

A THE BASES OF ITALIAN FOREIGN POLICY

The situation created by those who made the peace terms in Paris is such that a detailed review is superfluous. Public opinion all over the world is beginning to ask how statesmen could have parcelled out immense colonial territories without any regard for the only one of the Allies for whom the pressure of population was creating a vital and urgent problem. How could statesmen, when distributing colonial mandates, have seen fit to entrust these to Great Britain, France, Japan, Belgium, South Africa, New Zealand and Australia—and none to Italy? Why, at the risk of deeply offending the Italian people, did they choose to create so many

¹ Reprinted by permission of *Foreign Affairs*, New York.

artificial difficulties and obstacles to Italy's national aspirations? Why, in short, should Italy, who had been a loyal member of the victorious alliance in the war, have deliberately been thwarted and made discontented . ?

Coming into power in October 1922, Mussolini was faced by two exigencies of foreign policy the need to rouse the European Powers to a sense of Italian realities, to a recognition of the new creative forces inherent in the national rebirth; and the necessity of incorporating the Italian question in the vaster and more general problem of a revision of the principles upon which the peace settlement had been founded

One episode of Mussolini's foreign policy has often been misunderstood both in the United States and in England Indeed, my American and English friends have always advised me not to talk about it I frequently bring it up, however, because I believe in the eloquence of examples I refer to the Corfu episode There is a sentimental aspect to this incident, and apparently that is the only one which struck the imagination of most people namely, the guns of a great naval Power were trained against a lesser one This fact is certainly not new in history, nor can it be suggested that Mussolini invented the procedure Not unnaturally, however, every time it occurs it arouses a reaction of public feeling But the real importance of the Corfu incident was quite different The Duce, by the concrete example of the Corfu expedition, called Europe's attention to the respect due the new Italy and to the reawakened energies of the Italian people That is to say, it called attention to a fact that had been ignored at the Paris Conference .

The League of Nations exists at Geneva, but despite all the trust we may place in it, and all the good will with which we uphold it, it is a fact that the League now stands on the defensive, and all the efforts made for a reduction of armaments have led to no results .

The general function of Italy in the balance of Europe is perhaps better understood now in France

This function is dictated to Italy by her geographical position and her Mediterranean interests With her natural frontiers, Italy has no dreams of continental conquests, but she must be safe in the continent to which she is attached and on the seas that surround her This security can only be guaranteed by the equilibrium of European forces Italy's freedom is compromised the moment this

balance is disturbed. Thus Italy cannot be other than adverse to the formation of military alliances, political blocs, and closed systems, which seem to translate into present reality an old civic law of Manu, "Your neighbor is your enemy, but your neighbor's neighbor is your friend."

From the North Sea to the Danubian Basin there exists today an uninterrupted chain of political and diplomatic guarantees. The preservation of this chain is an essential condition of European collaboration.

But Italy also has her own problems to solve, and ones no less formidable than those of safety, liberty, or the resumption of economic relations with neighboring countries. Ours is a vital problem that involves our very existence and our future, a future of peace, tranquillity and work for a population of 42 million souls, which will number 50 million in another fifteen years. Can this population live and prosper in a territory half the size of that of Spain and Germany and lacking raw materials and natural resources to meet its vital needs, pent up in a closed sea beyond which its commerce lies, a sea the outlets of which are owned by other nations, while yet others control the means of access—the Caudine Forks of her liberty, safety, and means of livelihood—the while all the nations of the world are raising barriers against the development of trade, the movement of capital, and emigration, denationalizing whoever crosses their frontiers to enter, I do not say their own homes, but even their protectorates and colonies?

B. MUSSOLINI ON FOREIGN AFFAIRS

The following speech was made by Mussolini on November 1, 1936, at Milan. In it he outlined with characteristic brusqueness some of his attitudes on international issues.¹

Black Shirts of Milan. By means of the speech which I am about to make to you and for which I ask, and you will give me, a few dozen minutes of your attention, I intend to lay down the position of Fascist Italy with regard to its relations with other peoples in this so turgid and disquieting moment.

¹ Speech of Mussolini, Milan, November 1, 1936, *International Conciliation*, No. 326, January, 1937, pp. 122-26. Reprinted by permission of *International Conciliation*, New York.

The high level of your political education allows me to lay before you these problems which elsewhere are debated in so-called parliaments or after so-called democratic banquets

I shall be extremely brief, but I add that every one of my words has been weighed

If one wishes to clarify the European atmosphere it is first necessary to clear the table of all illusions, of all commonplaces, of all conventional lies that still constitute relics of the great shipwreck of Wilsonian ideology

One of these illusions that is already flat is the illusion of disarmament No one wishes to disarm first, and for all to disarm together is impossible and absurd And still, when the conference for disarmament meets in Geneva, the illusion functions in full The result is a mountain of bombastic oratory On this mountain is concentrated for some days all the glare of the projectors of world publicity Then, at a certain moment, out from the mountain comes a tiny mouse, which finally is lost in a labyrinth of procedure which for fertile invention has no precedent in history

For us Fascists, in the habit of examining with cool eye the reality of life and of history, another illusion we reject is that which passed by the name of collective security Collective security never existed, does not exist, and will never exist A virile people provides within its own borders its collective security and refuses to confide its destiny to uncertain hands of third persons

Another platitude which it is necessary to reject is indivisible peace Indivisible peace could have only this meaning indivisible war But peoples refuse, and justly so, to fight for interests that do not concern them

The very League of Nations is based upon an absurdity which consists of the criterion of absolute juridical parity among all States, whereas the States are different from one another, at least from the viewpoint of their historic responsibility

For the League of Nations the dilemma is expressed in very clear terms, either to reform itself or to perish

Since it is extremely difficult for the League to reform itself, as far as we are concerned it can perish in peace

In addition to these four countries bordering Italy, a great country recently aroused vast sympathy from the masses of the Italian people I speak of Germany.

The meetings at Berlin had as a result an understanding between

the two countries on definite problems, some of which are particularly troublesome these days

But these understandings which have been consecrated and duly signed—this Berlin-Rome protocol—is not a barrier, but is rather an axis around which all European States animated by the will for collaboration and for peace may collaborate

It is no wonder if we today raise the banner of anti-bolshevism
This is our old banner!

We were born under this sign! We have fought against this enemy! We have conquered him through our sacrifices of blood!

This is because what is called bolshevism and communism is today—listen well to me—only super-capitalism of a State carried to its most ferocious extreme. It is not, therefore, the negation of a system, but the development and sublimation of this system, and the time has come to put an end to it. This might be by opposing Fascism and democracy to it. Truly, one can say that this, our great Italy, is still the great unknown

I have concerned myself up to this point with the Continent. But Italy is an island. It is necessary for Italians little by little to take on an insular mentality, because it is the only method for taking all problems of naval defense of the nation in their true light.

Italy is an island which emerges from the Mediterranean

This sea—I address myself here also toward the English, who perhaps at this moment are listening by radio—this sea for Great Britain is a highroad, one of the many highroads or, rather, short cuts through which the British Empire reaches its outlying territory more rapidly.

Let it be said between parentheses that when the Italian Negrelli projected the cutting of the Isthmus of Suez he was considered—above all, in England—as scatterbrained.

If the Mediterranean is for others a highroad, for us Italians it is life.

We have said a thousand times, and I repeat before this magnificent multitude, that we do not intend to menace this road, we do not intend to interrupt it. But we demand on the other hand that our rights and vital interests be also respected. There are no other alternatives.

Milan Comrades, let us turn to our own affairs: Marching orders for the fifteenth year of Fascism are the following: Peace with all, with those near and afar. Armed peace!

Therefore, our program of armaments for land, sea, and sky will be regularly developed

C. MEDITERRANEAN INTERESTS

No area matches the Mediterranean in importance to Italian diplomacy Italian access to world markets is chiefly through this sea Fascist expansionist tendencies have been most evident along the shores of the Mediterranean, in Libya, and in the Near East The acquisition of Abyssinia enhances the importance of the area as a route to this new colony Italian intervention in the Spanish Civil War may be explained, in part, as an effort to gain strength in that part of the sea where France and England are most powerful The extract below, by an Italian Fascist, explains further this concern of Italian foreign policy (His Excellency Gioucchino Volpe, "Italian Interests and Policy in the Mediterranean," *International Conciliation*, No 336, January, 1938, pp 27-32) ¹

Italy may be said to be purely Mediterranean This Mediterranean character, furthermore, is accentuated by the Alps, separating Italy from the rest of Europe Italy's early civilization came from the countries of the Mediterranean, it is toward the Mediterranean that her activity has always been directed Rome had not yet reached the Alps when she was already installed in Sicily, in the Orient, in Carthage, and in Spain It is because the Romans were a Mediterranean people and had brought about the unity of Mediterranean civilization that Rome won her most beautiful laurels It is a matter of legitimate pride to Italians that they have cooperated more perhaps than any other people in preserving for the Mediterranean its character of a European sea, in antiquity, in the Middle Ages, and in modern times No country is so closely bound and subordinated to the Mediterranean as is Italy—neither Spain nor France nor England, which, however, has there its principal highway to India.

The Mediterranean interests of Italy, we repeat again, are based upon our security in that Sea and on the possibility of expansion of our labor in competition with others but not to the detriment

¹ Reprinted by permission of *International Conciliation*, New York.

of others At the same time was developed our effort at home to realize in greater measure the possibilities of our country, of our modest mineral resources, of the labor capacity of our people, and of the creative force of our scientists, an effort which has only been possible thanks to social peace and to the corporative organization That, Mussolini has said, was the kind of war that we preferred That shows clearly that we wish by peaceful means to provide for the fundamental needs of the population which has now reached 45,000,000 It was also to assure our international freedom

D THE DEMAND FOR EMPIRE

During the Ethiopian War, Dr August Rosso, Italian Ambassador to the United States, made a speech at Boston, in the course of which he gave the following defense of Italy's policy of expansion (Dr August Rosso, "Italy's Conflict with Ethiopia," *International Conciliation*, No. 315, December, 1935, pp 550-52)¹

If "imperialism" be interpreted as a selfish desire for more and more territory, I deny most emphatically that my country is motivated by this sort of imperialistic spirit

But I am ready to admit that Italy wants to live, to work, to progress In short, to expand

It was only historical necessity that the nations of Europe expanded in the vast African continent. Spaniards, Portuguese, French, British, Dutch, Belgians, and Germans all these nations expanded in Africa And European expansion meant . well, it meant exploitation of course, but it meant also progress and civilization Each step was met by cries of "imperialism," but the march went on, as an historical necessity It was, as a distinguished American columnist has said, "the march of cosmic events" And nobody can deny that Morocco, Algeria, the Congo, the Sudan, or South Africa are today more civilized and more content, better governed and better organized, and certainly more productive than they were before their contacts with "imperialistic" nations

In view of these precedents we feel justified in asking why Italy should not have the same right to grow and to expand

There can be no denial of the fact that we need expansion Over

¹ Reprinted by permission of *International Conciliation*, New York

forty-four million people are compressed within a territory less than half the size of your State of Texas, and not as rich in natural resources. Expansion for us is not a policy invented by Mussolini. It is a need—an actual and physical need of the Italian nation, and a need which Mussolini is trying to satisfy in order to keep the living standard of the Italian people at least at its present level, in order to prevent the restless forces of anarchy and bolshevism exploiting the hardships of an economic life which only the sound discipline of fascism has been able to make endurable.

As a matter of historical fact, the economic and demographic pressure in Italy coincided with the closing of almost all doors to Italian emigration.

It coincided too, with the recrudescence of commercial policies so militant in character as to close a substantial portion of the outlets in both hemispheres for the products of Italian labor. The need for markets has driven countries, before our day, to press forward with programs of colonial expansion, seeking spheres of influence and creating eventually virtual protectorates.

Affected as we were by the commercial and demographic policies of other countries, what could be more natural than that we should try to accomplish two very desirable objectives at one and the same time: first, termination of an intolerable situation that had harassed us for years, and seemed to have no solution but the ultimate sanction of force, and, secondly, the creation of a market which could not compensate for the markets we had lost, but at least might furnish us with much needed raw materials—those raw materials with regard to which we earnestly invited the Great Powers—already in 1920 and not infrequently afterwards—to take a farsighted and constructive point of view.

Two comparatively small strips of the arid coast of North East Africa were, practically, all that we possessed, and these colonies, confronted with formidable climatic and physical difficulties, could hope to survive only in the measure that normal and wholesome commercial intercourse with the adjacent hinterland might be established.

165. THE ROME-BERLIN AXIS

There are several factors of common interest in the foreign policies of Fascist Italy and Nazi Germany. In substantial

agreement on political doctrines, both have assumed a strong anti-communist attitude. It was for this reason that Italy adhered to the Anti-Communist Pact of 1936 between Germany and Japan. Still more important is the fact that Germany and Italy are both "revisionist" powers, dissatisfied with the status quo and eager to expand their territories.

The Rome-Berlin Axis was founded upon these common interests. It was founded upon understandings and conversations concluded late in 1936. It has been strained at times by situations which involved conflicting interests of the two powers. The German annexation of Austria in opposition to Italian Central European and Balkan ambitions created coolness between the two powers. The Nonaggression Pact between Germany and Russia in 1939 raised some doubt as to the status of the Axis, although its existence was affirmed.

The mutual obligations which have been assumed by the two countries were finally crystallized in a treaty of friendship and alliance signed in May, 1939. In spite of its provisions, Italy did not go to war as an ally of Germany in September, 1939. The text of the agreement follows ¹

PACT OF FRIENDSHIP AND ALLIANCE BETWEEN GERMANY AND ITALY

The German Reich Chancellor and His Majesty the King of Italy and Albania, Emperor of Ethiopia, hold the time to have come to strengthen the friendly and homogeneous relationship between National-Socialist Germany and Fascist Italy through a solemn pact.

Now that a bridge for mutual help and support has been created through the common frontier fixed for all time, both Governments testify anew to the policy, which in its principle and aims has already been agreed upon by them, and which has proved successful for the promotion of the interests of the two countries as well as for the securing of peace in Europe. Firmly united through the inner affinity of their *Weltanschauung* and the comprehensive solidarity of their interests, the German and Italian nations are deter-

¹ *News in Brief*, May-June, 1939

mined in future also to act side by side and with united forces for the securing of their living space and the maintenance of peace

Along this path, marked out for them by history, Germany and Italy, in the midst of a world of unrest and destruction, want to serve the task of maintaining the principles of European civilization

. . .

In order to settle these principles in treaty form, the German Chancellor has appointed the Reich Foreign Minister, Joachim von Ribbentrop, and His Majesty, the King of Italy and Albania, Kaiser of Ethiopia, the Minister for Foreign Affairs, Count Galeazzo Ciano di Cortellazzo, as plenipotentiary powers, who have agreed upon the following articles

ARTICLE I

The contracting parties will remain in standing contact with each other in order to come to an understanding on all questions touching common interests of the European situation as a whole

ARTICLE II

Should the common interests of the contracting parties be endangered by international events of any kind whatsoever, they will immediately enter into discussions over the measures to be taken for the protection of these interests

If the security or vital interests of one of the contracting parties be threatened from outside, the other will give the threatened party full political and diplomatic support in order to set aside this threat

ARTICLE III

If, contrary to the wishes and hopes of the contracting parties, it should happen that one of them is involved in hostilities with another Power or Powers, the other contracting party will come immediately to its side as ally and support it with all its military forces on land, sea, and in the air.

ARTICLE IV

In order to secure the speedy execution of the alliance obligations undertaken in Article 3, the Governments of the two contracting parties will intensify their collaboration in the military

field, and the field of war economy. In the same way the two Governments will, from time to time, reach agreement on other measures necessary for the practical execution of this Pact For this purpose standing commissions will be set up which will be under the direction of the two Foreign Ministers

ARTICLE V

The contracting parties undertake now that in the event of a war conducted in common they will conclude an armistice and peace only in full agreement with each other.

ARTICLE VI

The two contracting parties are aware of the significance which attaches to their own relations to the States with which they have friendly relations They are resolved to maintain these relations in future and to shape accordingly the harmonious interests through which they are bound with these Powers

ARTICLE VII

This pact comes into force immediately upon signature The two contracting parties have agreed that the first period of its validity should be fixed at 10 years. In due time, before the expiry of this period, they will reach agreement over the extension of the validity of the pact

As document of this the plenipotentiaries have signed this Pact and set their seal to it

Completed in duplicate form, in German and Italian, both have the same validity

Berlin, May 22, 1939

XVII Year of the Fascist Era

(signed) JOACHIM VON RIBBENTROP

(signed) GALEAZZO CIANO

PART V

RUSSIA

CHAPTER XXVII

THE COMMUNIST STATE

166. THE THEORETICAL BASIS OF COMMUNISM

Russian communism finds its theoretical basis in the work of Karl Marx (1818-83), a German revolutionary leader, economist and founder of the dominant socialist philosophy of modern times. Marx's theories center around two principles. The first is that labor is the real source of all value or wealth. The second is that capitalist societies, in their present forms, are the embodiments of a constant struggle between two antagonistic classes—the bourgeoisie and the proletariat.

Marx explained, with regard to his first principle, that while labor is the real source of all value, the laborer in a capitalist society gets only a part of the wealth he creates—a wage, just sufficient for subsistence. The remainder of the wealth created by labor—which Marx called surplus value—is pocketed by the capitalist as profit. These “thefts of labor” can only be prevented, according to Marx, by placing the means of production in the hands of the exploited class.

This economic analysis also supplies the basis for the theory of the class struggle. The interests of the bourgeoisie and the proletariat are inevitably antagonistic. In the end, “the laws of capitalism” by which the rich get richer and fewer and the poor become poorer and more numerous, will bring about

conditions so intolerable that the proletariat will eventually arise and destroy its oppressor

These theories are developed in the following extracts (Karl Marx, *Value, Price and Profit*, pp 77-81, and Karl Marx and Friedrich Engels, *Manifesto of the Communist Party*, *passim*) ¹

A THE PRODUCTION OF SURPLUS VALUE

Now suppose that the average amount of the daily necessities of a laboring man require six hours of average labor for their production. Suppose, moreover, six hours of average labor to be also realized in a quantity of gold equal to 3s. Then 3s. would be the Price, or the monetary expression of the Daily Value of the man's Laboring Power. If he worked daily six hours he would daily produce a value sufficient to buy the average amount of his daily necessities, or to maintain himself as a laboring man.

But our man is a wages laborer. He must, therefore, sell his laboring power to a capitalist. If he sells it at 3s. daily, or 18s. weekly, he sells it at its value. Suppose him to be a spinner. If he works six hours daily he will add to the cotton a value of 3s. daily. This value, daily added by him, would be an exact equivalent for the wages, or the price of his laboring power, received daily. But in that case no surplus value or surplus produce whatever would go to the capitalist. Here, then, we come to the nub.

In buying the laboring power of the workman, and paying its value, the capitalist, like every other purchaser, has acquired the right to consume or use the commodity bought. You consume or use the laboring power of a man by making him work, as you consume or use a machine by making it run. By buying the daily or weekly value of the laboring power of the workman, the capitalist has, therefore, acquired the right to use or make that laboring power work during the whole day or week. The working day or the working week, has, of course, certain limits, but those we shall afterwards look more closely at.

For the present I want to turn your attention to one decisive point

¹ Reprinted by permission of Charles H. Kerr Company, Chicago

The value of the laboring power is determined by the quantity of labor necessary to maintain or reproduce it, but the use of that laboring power is only limited by the active energies and physical strength of the laborer. The daily or weekly value of the laboring power is quite distinct from the daily or weekly exercise of that power, the same as the food a horse wants and the time it can carry the horseman are quite distinct. The quantity of labor by which the value of the workman's laboring power is limited forms by no means a limit to the quantity of labor which his laboring power is apt to perform. Take the example of our spinner. We have seen that, to daily reproduce his laboring power, he must daily reproduce a value of three shillings, which he will do by working six hours daily. But this does not disable him from working ten or twelve or more hours a day. But by paying the daily or weekly value of the spinner's laboring power the capitalist has acquired the right of using that laboring power during *the whole day or week*. He will, therefore, make him work say, daily, twelve hours. Over and above, the six hours required to replace his wages, or the value of his laboring power, he will, therefore, have to work six other hours, which I shall call hours of surplus labor, which surplus labor will realize itself in a surplus value and a surplus produce. If our spinner, for example, by his daily labor of six hours, added three shillings' value to the cotton, a value forming an exact equivalent to his wages, he will, in twelve hours, add six shillings' worth to the cotton, and produce a proportional surplus of yarn. As he has sold his laboring power to the capitalist, the whole value or produce created by him belongs to the capitalist who will, therefore, realize a value of six shillings, because, advancing a value in which six hours of labor are crystallized, he will receive in return a value in which twelve hours of labor are crystallized. By repeating this same process daily, the capitalist will daily advance three shillings and daily pocket six shillings, one half of which will go to pay wages anew, and the other half of which will form surplus value, for which the capitalist pays no equivalent. It is this sort of exchange between capital and labor upon which capitalistic production, or the wages system, is founded, and which must constantly result in reproducing the working man as a working man, and the capitalist as a capitalist.

B THE THEORY OF THE CLASS STRUGGLE

The history of all hitherto existing society is the history of class struggles

Freeman and slave, patrician and plebeian, lord and serf, guild-master and journeyman, in a word, oppressor and oppressed, stood in constant opposition to one another, carried on an uninterrupted, now hidden, now open fight, a fight that each time ended, either in a revolutionary reconstitution of society at large, or in the common ruin of contending classes

In the earlier epochs of history, we find almost everywhere a complicated arrangement of society into various orders, a manifold gradation of social rank. In ancient Rome we have patricians, knights, plebeians, slaves, in the Middle Ages, feudal lords, vassals, guild-masters, journeymen, apprentices, serfs; in almost all of these classes, again subordinate gradations

The modern bourgeois society that has sprouted from the ruins of feudal society, has not done away with class antagonisms. It has but established new classes, new conditions of oppression, new forms of struggle in place of the old ones

Our epoch, the epoch of the bourgeoisie, possesses, however, this distinctive feature. It has simplified the class antagonisms. Society as a whole is more and more splitting up into two great hostile camps, into two great classes directly facing each other—bourgeoisie and proletariat.

From the serfs of the Middle Ages sprang the chartered burghers of the earliest towns. From these burgesses the first elements of the bourgeoisie were developed

The discovery of America, the rounding of the Cape, opened up fresh ground for the rising bourgeoisie. The East-Indian and Chinese markets, the colonisation of America, trade with the colonies, the increase in the means of exchange and in commodities generally, gave to commerce, to navigation, to industry, an impulse never before known, and thereby, to the revolutionary element in the tottering feudal society, a rapid development

The feudal system of industry, in which industrial production was monopolised by closed guilds, now no longer sufficed for the growing wants of the new markets. The manufacturing system took its place. The guild-masters were pushed aside by the manufacturing middle class, division of labour between the different corporate

guilds vanished in the face of division of labour in each single workshop

Meantime the markets kept ever growing, the demand ever rising. Even manufacture no longer sufficed. Thereupon, steam and machinery revolutionised industrial production. The place of manufacture was taken by the giant, modern industry, the place of the industrial middle class, by industrial millionaires—the leaders of whole industrial armies, the modern bourgeois.

Modern industry has converted the little workshop of the patriarchal master into the great factory of the industrial capitalist. Masses of labourers, crowded into the factory, are organised like soldiers. As privates of the industrial army they are placed under the command of a perfect hierarchy of officers and sergeants. Not only are they slaves of the bourgeois class, and of the bourgeois state, they are daily and hourly enslaved by the machine, by the over-looker, and, above all, by the individual bourgeois manufacturer himself. The more openly this despotism proclaims gain to be its end and aim, the more petty, the more hateful and the more embittering it is.

But with the development of industry the proletariat not only increases in number; it becomes concentrated in greater masses, its strength grows, and it feels that strength more. The various interests and conditions of life within the ranks of the proletariat are more and more equalised, in proportion as machinery obliterates all distinctions of labour and nearly everywhere reduces wages to the same low level. The growing competition among the bourgeois, and the resulting commercial crises, make the wages of the workers ever more fluctuating. The unceasing improvement of machinery, ever more rapidly developing, makes their livelihood more and more precarious, the collisions between individual workmen and individual bourgeois take more and more the character of collisions between two classes. Thereupon the workers begin to form combinations (trade unions) against the bourgeoisie, they club together in order to keep up the rate of wages, they found permanent associations in order to make provision beforehand for these occasional revolts. Here and there the contest breaks out into riots.

Of all the classes that stand face to face with the bourgeoisie today, the proletariat alone is a really revolutionary class. The other classes decay and finally disappear in the face of modern industry, the proletariat is its special and essential product.

Hitherto, every form of society has been based, as we have already seen, on the antagonism of oppressing and oppressed classes. But in order to oppress a class, certain conditions must be assured to it under which it can, at least, continue its slavish existence. The serf, in the period of serfdom, raised himself to membership in the commune, just as the petty bourgeois, under the yoke of feudal absolutism, managed to develop into a bourgeois. The modern labourer, on the contrary, instead of rising with the progress of industry, sinks deeper and deeper below the conditions of existence of his own class. He becomes a pauper, and pauperism develops more rapidly than population and wealth. And here it becomes evident, that the bourgeoisie is unfit any longer to be the ruling class in society, and to impose its conditions of existence upon society as an over-riding law. It is unfit to rule because it is incompetent to assure an existence to its slave within his slavery, because it cannot help letting him sink into such a state, that it has to feed him, instead of being fed by him. Society can no longer live under this bourgeoisie, in other words, its existence is no longer compatible with society.

The Communists fight for the attainment of the immediate aims, for the enforcement of the momentary interests of the working class, but in the movement of the present, they also represent and take care of the future of that movement . . .

In short, the Communists everywhere support every revolutionary movement against the existing social and political order of things.

In all these movements they bring to the front, as the leading question in each case, the property question, no matter what its degree of development at the time.

Finally, they labour everywhere for the union and agreement of the democratic parties of all countries.

The Communists disdain to conceal their views and aims. They openly declare that their ends can be attained only by the forcible overthrow of all existing social conditions. Let the ruling classes tremble at a Communist revolution. The proletarians have nothing to lose but their chains. They have a world to win.

Workingmen of all countries, unite!

167 THE DICTATORSHIP OF THE PROLETARIAT

Lenin, more than any other socialist thinker of recent times, gave the theories of Marx a definitely revolutionary cast. He took the position that a socialist state could be established only by the forcible abolition of the bourgeoisie and the seizure of power by the proletariat. The character of the proletarian state is described briefly in the following passage from his best-known book (V I Lenin, *The State and Revolution*, pp. 40-44)¹

But, if the question of the state is raised, if parliamentarism is to be regarded as one institution of the state, what then, from the point of view of the tasks of the proletariat in this realm, is to be the way out of parliamentarism? How can we do without it?

To destroy officialdom immediately, everywhere, completely—this cannot be thought of. That is a Utopia. But to break up at once the old bureaucratic machine and to start immediately the construction of a new one which will enable us gradually to reduce all officialdom to naught—this is no Utopia, it is the experience of the Commune, it is the direct and urgent task of the revolutionary proletariat.

Capitalism simplifies the functions of “state” administration, it makes it possible to throw off “commanding” methods and to reduce everything to a matter of the organisation of the proletarians (as the ruling class), hiring “workmen and managers” in the name of the whole of society.

We are not Utopians, we do not indulge in “dreams” of how best to do away immediately with all administration, with all subordination, these Anarchist dreams, based upon a lack of understanding of the task of proletarian dictatorship, are basically foreign to Marxism, and, as a matter of fact, they serve but to put off the Socialist revolution until human nature is different. No, we want the Socialist revolution with human nature as it is now, with human nature that cannot do without subordination, control, and “managers.”

But if there be subordination, it must be to the armed vanguard

¹ Reprinted by permission of International Publishers, New York

of all the exploited and the labouring—to the proletariat The specific “commanding” methods of the state officials can and must begin to be replaced—immediately, within twenty-four hours—by the simple functions of “managers” and bookkeepers, functions which are now already within the capacity of the average city dweller and can well be performed for “workingmen’s wages”

We organise large-scale production, starting from what capitalism has already created, we workers ourselves, relying on our own experience as workers, establishing a strict, an iron discipline, supported by the state power of the armed workers, shall reduce the rôle of the state officials to that of simply carrying out our instructions as responsible, moderately paid “managers” (of course, with technical knowledge of all sorts, types and degrees). This is our proletarian task, with this we can and must begin when carrying through a proletarian revolution. Such a beginning, on the basis of large-scale production, of itself leads to the gradual creation of a new order, an order without quotation marks, an order which has nothing to do with wage slavery, an order in which the more and more simplified functions of control and accounting will be performed by each in turn, will then become a habit, and will finally die out as special functions of a special stratum of the population.

A witty German Social-Democrat of the 'seventies of the last century called the post-office an example of the socialist system. This is very true. At present the post-office is a business organised on the lines of a state capitalist monopoly. Imperialism is gradually transforming all trusts into organisations of a similar type. Above the “common” workers, who are overloaded with work and starving, there stands here the same bourgeois bureaucracy. But the mechanism of social management is here already to hand. Overthrow the capitalist, crush with the iron hand of the armed workers the resistance of these exploiters, break the bureaucratic machine of the modern state—and you have before you a mechanism of the highest technical equipment, freed of “parasites,” capable of being set into motion by the united workers themselves who hire their own technicians, managers, bookkeepers, and pay them all, as, indeed, every “state” official, with the usual workers’ wage. Here is a concrete, practicable task, immediately realisable in relation to all trusts, a task that frees the workers of exploitation and makes use of the experience (especially in the realm of the construction of the state) which the Commune began to reveal in practice.

To organise the *whole* national economy like the postal system, in such a way that the technicians, managers, bookkeepers as well as *all* officials, should receive no higher wages than "workingmen's wages," all under the control and leadership of the armed proletariat—this is our immediate aim. This is the kind of state and economic basis we need. This is what will produce the destruction of parliamentarism, while retaining representative institutions. This is what will free the labouring classes from the prostitution of these institutions by the bourgeoisie.

168 COMMUNISM AND WORLD REVOLUTION

Communism has always looked to the establishment of an international community founded upon the dictatorship of the proletariat of all countries. Its appeal has been made to the workers of all lands. The first international workingmen's association, commonly known as the First International, was formed in 1864 and broke up in 1876. The second International was formed in 1889. It failed when the World War effectively destroyed international unity among socialists. The Third International grew out of the successful establishment of a communist regime in Russia in 1917. While the officials of the Russian government deny association with the Third International, it cannot be denied that the Soviet regime is very much interested in the work which the International carries on. The expulsion of Trotsky and his followers from the *Politburo* in 1926 marked the beginning of an era during which the consolidation of socialism within Russia has been emphasized at the expense of the promotion of world revolution.

The first extract under this heading is a discussion by Lenin of the duties of members of the International. The second is a Manifesto issued by the Communist International. Stalin's views on the subject are presented in the third extract, taken from a letter written by him.

A DUTIES OF THE MEMBERS OF THE COMMUNIST
INTERNATIONAL ¹

The second congress of the communist international adopts the following conditions for membership in the communist international, published by the Workers Library, New York

1 The daily propaganda and agitation must bear a truly Communist character and correspond to the program and all the decisions of the Third International. All the organs of the press that are in the hands of the Party must be edited by reliable Communists who have proved their loyalty to the cause of the proletarian revolution. The dictatorship of the proletariat should not be spoken of simply as a current hackneyed formula, it should be advocated in such a way that its necessity should be apparent to every rank-and-file working man and woman, each soldier and peasant, and should emanate from the facts of everyday life systematically recorded by our press day after day.

The periodical and non-periodical press and all Party publishing organizations must be wholly subordinate to the Central Committee of the Party, irrespective as to whether the Party as a whole, at the given moment, is legal or illegal. That publishing organizations, abusing their autonomy, should pursue a policy that does not completely correspond to the policy of the Party, cannot be tolerated.

In the columns of the newspapers, at public meetings, in the trade unions, in the co-operative societies—wherever the adherents of the Third International gain access, they must systematically and mercilessly denounce not only the bourgeoisie, but also its assistants, the reformists of every shade.

2 Every organization desiring to belong to the Communist International must steadily and systematically remove from all responsible posts in the Labor movement in the Party organization, editorial boards, trade unions, parliamentary factions, co-operative societies, municipalities, etc., all reformists and followers of the "Center," and have them replaced by Communists even at the cost of replacing at the beginning, "experienced" leaders by rank-and-file workmen.

3. The class struggle in almost all the countries of Europe and America is entering the phase of civil war. Under such conditions

¹ Reprinted by permission of the Workers Library, New York

the Communists can have no confidence in bourgeois law. They must everywhere create a parallel illegal apparatus, which at the decisive moment could assist the Party in performing its duty to the revolution. In all countries where, in consequence of martial law or exceptional laws, the Communists are unable to carry on all their work legally, a combination of legal and illegal work is absolutely necessary.

4. The obligation to spread Communist ideas includes the particular necessity of persistent, systematic propaganda in the army. Wherever such propaganda is forbidden by exceptional laws, it must be carried on illegally. The abandonment of such work would be equivalent to the betrayal of revolutionary duty and is incompatible with membership in the Third International.

5. It is necessary to carry on systematic and steady agitation in the rural districts. The working class cannot consolidate its victory without the backing of at least part of the agricultural laborers and the poorest peasants, and without having neutralized, by its policy, a part of the rest of the rural population.

6. Every party that desires to belong to the Third International must expose, not only open social patriotism, but also the falsity and hypocrisy of social-pacifism; it must systematically demonstrate to the workers that without the revolutionary overthrow of capitalism, no international arbitration courts, no disarmament, no "democratic" reorganization of the League of Nations will save mankind from new imperialist wars.

7. The Parties desiring to belong to the Communist International must recognize the necessity of a complete and absolute rupture with reformism and the policy of the "Center," and they must carry on propaganda in favor of this rupture among the broadest circles of the party membership. Otherwise a consistent Communist policy is impossible.

The Communist International unconditionally and peremptorily demands that this split be brought about *with the least delay*. The Communist International cannot reconcile itself to the fact that such avowed reformists, as Turatti, Kautsky, Hilferding, Hillquit, Longuet, MacDonald, Modigliani, and others should be entitled to consider themselves members of the Third International. This would make the Third International resemble, to a considerable degree, the late Second International.

9. Every party that desires to belong to the Communist Inter-

national must carry on systematic and persistent Communist work in the trade unions, in workers' and industrial councils, in the co-operative societies, and in other mass organizations. Within these organizations it is necessary to create Communist groups, which by means of practical and stubborn work must win over the trade unions, etc., for the cause of Communism. These cells should constantly denounce the treachery of the social-patriots and the vacillations of the "Center," at every step. These Communist groups should be completely subordinate to the Party as a whole.

11 The parties desiring to belong to the Third International must overhaul the membership of their parliamentary factions, not only verbally but in reality, to subordinate them to the Central Committee of the Party, and demand from every Communist member of parliament that he devote his entire activities to the interests of really revolutionary propaganda and agitation.

12 Parties belonging to the Communist International must be built up on the principle of democratic centralism. At the present time of acute civil war, the Communist Party will only be able fully to do its duty when it is organized in the most centralized manner, if it has iron discipline, bordering on military discipline, and if the Party center is a powerful, authoritative organ with wide powers, possessing the general trust of the party membership.

13 The Communist parties of those countries where the Communists' activity is legal shall make periodical cleanings (re-registration) of the members of the Party organizations, so as to systematically cleanse the party from the petty-bourgeois elements who inevitably attach themselves to it.

14 Every party that desires to belong to the Communist International must give every possible support to the Soviet Republics in their struggle against all counter-revolutionary forces. The Communist parties should carry on a precise and definite propaganda to induce the workers to refuse to transport munitions of war intended for enemies of the Soviet Republics, carry on legal or illegal propaganda among the troops, which are sent to crush the workers' republics, etc.

15. The parties which up to the present have retained their old Social-Democratic programs must in the shortest possible time overhaul these programs and draw up a new Communist program.

in conformity with the special conditions of their respective countries and in accordance with resolutions of the Communist International. As a rule, the program of every party that belongs to the Communist International must be ratified by the next Congress of the Communist International or by the Executive Committee. In the event of the Executive Committee of the Communist International failing to ratify the program of a particular party, that party has the right to appeal to the Congress of the Communist International.

16 All decisions of the Congresses of the Communist International as well as the decisions of its Executive Committee are binding on all parties affiliated to the Communist International. The Communist International, operating in the midst of most acute civil war, must have a far more centralized form of organization than that of the Second International. At the same time, the Communist International and its Executive Committee must, of course, in all their activities, take into consideration the diversity of the conditions under which the various parties have to work and fight, and should issue universally binding decisions only on questions on which the passing of such decisions is possible.

17 In connection with all this, all parties desiring to join the Communist International must change their names. Every party that desires to join the Communist International must bear the name Communist Party of such-and-such country (Section of the Third Communist International). This question as to name is not merely a formal one, but a political one of great importance. The Communist International has declared a decisive war against the entire bourgeois world and all the yellow, Social-Democratic parties. Every rank-and-file worker must clearly understand the difference between the Communist Parties and the old official "Social-Democratic" or "Socialist" parties which have betrayed the cause of the working class.

18 All the leading Party Organs of the press in all countries must publish all the chief documents of the Executive Committee of the Communist International.

21 Members of the Party who reject the conditions and theses of the Communist International, on principle, must be expelled from the party.

This applies also to the delegates to the special Party Congresses.

B. MANIFESTO OF THE SIXTH WORLD CONGRESS OF THE
COMMUNIST INTERNATIONAL ¹

To the Workers of the World! To All Workers and Peasants!
To All Oppressed Colonial Peoples! To the Soldiers and Sailors of
the Capitalist Armies and Navies!

Comrades, Fellow Workers!

The sixth congress of the communist international, the representative of the revolutionary workers all over the world, of all nations, peoples and races, appeals to you from Moscow, the red capital of the new world, to prepare yourselves for a struggle against the ever more insolent forces of capitalism

The master of the world, capital, which exploits the labor power of the workers in the most brutal fashion, which sucks out their strength, which turns the proletarian into a unit of capitalist technique, which wears out its proletarian slaves in the process of production, which places the most wonderful discoveries of science in the service of the golden calf, which introduces ever more complicated and splendid machines, which introduces to an ever-increasing extent the conveyor and flings millions of workers on to the streets, which gives them stones instead of bread, capital is now marching into the struggle against the rights and freedom of the working class. It is pressing the standard of living of the workers down ever lower, raising the bloody sword of the white terror and preparing for a new world war under the cloak of lying and bombastic phrases of world peace . . .

The "civilized" robbers, the bloodhounds of the general staffs, the swindlers of secret diplomacy, the bank magnates and the trust kings who are carrying on a criminal war in China, bombarding Chinese towns, occupying Chinese territory, robbing the Chinese people of the means of existence and destroying its most active sons, preparing attacks upon each other, organizing their forces for a common action against the Soviet Union, arming themselves to the teeth, on land, on the sea and in the air, who are using science to prepare the most barbarous, destructive and inhuman war which will stifle the workers with poison gas and slaughter them in great agony with artificially injected sickness, who conduct "monkey trials" against the teachings of Darwin, the most

¹ International Press Correspondence, December 31, 1928.

prominent contributor to science in the nineteenth century, who issue laws against "dangerous ideas," who murdered Sacco and Vanzetti in the electric chair, such a horrible atrocity that millions held their breath in anxiety only to groan for vengeance and curse the murderers, these civilized robbers, with their scholastic and non-scholastic lackeys, are raising a howl about the barbarism of the bolsheviks and about their own "love of peace"

The history of humanity has never known anything so hypocritical and sanctimonious, so lying and disgusting as the present ideology of modern "pacifist" imperialism, whose foreign political tasks consist in the most criminal, most barbarous, most counter-revolutionary, most destructive form of warfare ever known. The more furious the armament race becomes, the more energetic become the official and unofficial agents of imperialism in their howls of "peace" and in the production of "peace pacts" and in the organization of conferences and discussions, in the elaboration of projects and proposals of "peace"

From the standpoint of the class interests of the proletariat it is more than ever necessary today for the workers to realize their class independence and to realize that their interests are diametrically opposed to the interests of the capitalists and the capitalist states. A proletarian counter-attack is the only possible answer to the insolent attacks of capitalism, to the inhuman exploitation of labor power, to the unemployment, to the policy of dissolving the working class organizations and to the fascist terror. And in this period the high priests of the social democratic parties, who have shamelessly betrayed all the old traditions of the class struggle and who tread the elementary pride of the proletariat into the dust, in this period they preach the collaboration of the classes, "industrial peace" and "economic democracy." Peace and democracy under the iron-shod heel of trust capitalism! "Industrial peace" in economy and coalition with the bourgeoisie in politics, that is the treacherous sum of social democratic wisdom.

From the standpoint of the class interests of the proletariat it is more than ever necessary at the present time to expose every war-like action of the bourgeoisie, to draw the attention of the masses to the danger of war and to sound the alarm.

The communist international appeals to all workers and to all toilers to close their ranks still more firmly, to fight for the unity of the whole working class, to fight for the unity of the workers

with the peasants and to fight for the alliance of the workers with the oppressed colonial peoples in the struggle against the exploitation and oppression of the class enemy

The sixth world congress of the communist international adopted an international programme which is binding equally for all sections. For the first time since the existence of the revolutionary working class movement, the working class will have a document in its hand whose passages are law for the millions of organized workers in all countries and amongst all races and nations of the globe. This document is not one of peaceful grovelling before the bourgeoisie, it is not a document making for dishonorable peace with the bourgeoisie. It is not a declaration of pharisaical degenerate and treacherous unity with the bourgeoisie, a unity which means nothing but the desertion of the ranks of the proletariat for the camp of the enemy, desertion, treachery and renegacy. This programme is the guiding star of millions of exploited and oppressed toilers in the struggle against the oppressors, in the struggle of the proletarian masses, in the struggle of the white, black and yellow toilers in the tropics, in the farthest corners of the earth, in the plantations, in the factories, in the mines and on the railways, in the woods and in the desert, in the large towns and in the country, everywhere where the class-struggle is being carried on. It is the programme of the unity of the working class and of a life and death fight with the bourgeoisie. It is the programme of the inevitable world dictatorship of the proletariat.

The communist international appeals to all toilers, and in particular to the industrial workers, to take up the struggle for every inch of ground that has been won, to fight against the offensive of capitalism, to fight against the ruthless exploitation of capitalism, to fight against the enslavement of the proletariat, to fight against the policy of the imperialists and against imperialist war. The communist international appeals to all workers and to all oppressed peoples devotedly to defend the Chinese revolution, whose heroes and martyrs have fallen under the axe of the executioner. The communist international appeals to all honest proletarians to form a wall of iron around the Soviet Union against which imperialism is raising the sword of war. The communist international appeals for increased watchfulness and for a direct fight against the pacifist lies and pacifist deception. The communist international appeals for a complete break with the bourgeoisie and

for the unity of the ranks of the workers in a ruthless struggle against the class enemies of the proletariat

Against the social democratic unity with the bourgeoisie—for the class unity of the proletarians!

Against social imperialism—for the heroic support of our brothers in the colonies!

Against pacifist lies—for the devoted fight against imperialist war!

Against reformism and fascism—for the proletarian revolution!

4. Long live the proletarian dictatorship in the Soviet Union!

Long live the proletarian world revolution!

C. STALIN'S VIEWS ON WORLD REVOLUTION¹

(Printed in *The Slavonic Review*, XVI, 1937-38, 713-18) ¹

LETTER OF IVANOV TO STALIN

Dear Comrade Stalin, I ask you urgently to elucidate for me the following question. Here on the spot, and even in the regional committee of the Young Communist League, there is a twofold conception of the final victory of Socialism in our country—that is, people confuse the first group of contradictions with the second. In your works on the destinies of Socialism in the Soviet Union there is question of two groups of contradictions, internal and external.

While in the seminar for staff propagandists in the regional committee of the Young Communist League, I said, basing myself on your works, that the final victory of Socialism can only be on a world scale, but the regional committee workers—Urozhenko (first secretary of the regional committee) and Kazelkov (propaganda instructor)—treat my statement as a Trotskyist sortie.

I began quoting to them your works on this subject, but Urozhenko suggested that I should shut the three-volume edition, saying that “comrade Stalin was speaking in 1926, whereas we are now in 1938, then we did not have the final victory, but now we have, and there is no need at all for us to think about intervention and restoration”, he said further that “now we have the final victory of Socialism and complete security from intervention and the restoration of Capitalism.” Thus I have been held up as a

¹ Reprinted by permission of *The Slavonic Review*, London.

supporter of Trotskyism and dismissed from propaganda work, and the question of my remaining in the Young Communist League has been raised

I ask you, comrade Stalin, to explain to me Have we, or have we not yet, the complete victory of Socialism? Perhaps I have not yet discovered the additional contemporary material on this problem, in view of the changes in the situation

I also regard as anti-Bolshevist comrade Urozhenko's statement to the effect that comrade Stalin's works on this subject have become somewhat obsolete And were the regional committee workers right in holding me for a Trotskyist? That is for me a great insult and injury

I ask you, comrade Stalin, to accede to my request and to send your answer to Ivan Filippovich Ivanov, 1st Zasemsky Village Soviet, Manturovo District, Kursk Region

STALIN'S REPLY TO IVANOV

You are, of course, right, comrade Ivanov, and your opponents, that is, comrades Urozhenko and Kazelkov, are wrong

And here are the reasons

There is no doubt that the question of the victory of Socialism in one country—in this particular case in our country—has two different aspects

The first aspect of the question of the victory of Socialism in our country concerns the problem of the mutual relations of classes within our country That is the domain of *internal* relations. Can the working class of our country overcome its contradictions with our peasantry and establish an alliance and co-operation with it? Can the working class of our country, in alliance with our peasantry, defeat the bourgeoisie of our country, take away its land, factories, mines, etc., and build up by its own forces a new classless society, a thoroughgoing Socialist society?

Such are the problems involved in the first aspect of the question of the victory of Socialism in our country

Leninism gives an affirmative answer to those problems Lenin teaches that "we have all that is necessary for building up a thoroughgoing Socialist society"

The second aspect of the question of the victory of Socialism in our country concerns the problem of the mutual relations of our country with other countries, with capitalist countries, the prob-

lem of the mutual relations of the working class of our country with the bourgeoisie of other countries This is the domain of *external, international* relations Can the victorious Socialism of one country, which has for its environment a number of strong capitalist countries, regard itself as absolutely secure from the danger of military aggression (intervention) and, consequently, from attempts to re-establish capitalism in our country? Can our working class and our peasantry, by their own forces, without serious help from the working class of the capitalist countries, defeat the bourgeoisie of other countries just as they defeated their own? In other words, is it possible to regard the victory of Socialism in our country as final, that is, as secure from the danger of a military aggression and of attempts to re-establish capitalism, provided the victory of Socialism has been achieved in one single country and the capitalist surroundings still continue to exist?

Such are the problems involved in the second aspect of the question of the victory of Socialism in our country

Leninism gives a negative answer to these problems Leninism teaches that "the final victory of Socialism, in the sense of complete security from the restoration of bourgeois conditions, is possible only on an international scale" (see the well-known resolution of the 14th Conference of the All-Union Communist Party) This means that the serious help of the international proletariat is that force without which the problem of the final victory of Socialism in one country cannot be solved This does not, of course, imply that we must sit with our arms folded and await help from outside. On the contrary, the help on the part of the international proletariat must be combined with our efforts towards reinforcing the defences of our country, reinforcing the Red Army and the Red Navy, and mobilising the whole country in the struggle against military aggression and attempts at restoring bourgeois conditions

This is what Lenin says on the subject

"We live not only in a State, but in a system of States, and the existence of the Soviet Republic next to a number of imperialist States for a long time is unthinkable In the end either the one or the other will have the better of it Until that end comes, a series of most terrible conflicts between the Soviet Republic and the bourgeois States is inevitable This means that the ruling class, the proletariat, if it wants to and will rule, must prove this also by its military organisation"

It follows that this question comprises two different problems (a) the problem of the internal relations of our country, that is the problem of overcoming our own bourgeoisie and building up thoroughgoing Socialism, and (b) the problem of the external relations of our country, that is the problem of the complete security of our country from the dangers of military intervention and restoration. The first problem has already been solved by us, because our bourgeoisie has already been liquidated and Socialism has already been built in essentials. We call this the victory of Socialism or, to be more exact, the victory of socialist construction in one country. We could say that this victory was final if our country were situated on an island and had not been surrounded by a number of other, capitalist, countries. But since we live not on an island but in a "system of States," a considerable number of which are hostile to the country of Socialism, thus creating a danger of intervention and restoration, we say openly and honestly that the victory of Socialism in our country is not yet complete. From this it follows, however, that the second problem is not yet solved and will have to be solved. Moreover, the second problem cannot be solved in the same way in which the first problem was solved, that is, by the unaided efforts of our country alone. The second problem can be solved only by combining a serious effort of the international proletariat with a still more serious effort of the whole of our Soviet people. It is necessary to strengthen and consolidate the international proletarian ties between the working class of the USSR and the working class of the bourgeois countries, it is necessary to organise the political aid of the working class of the bourgeois countries to the working class of our country in the event of a military aggression against our country, just as to organise all kind of help on the part of the working class of our country to the working class of the bourgeois countries, it is necessary to do our utmost to fortify and consolidate our Red Army, Red Navy, Red Air Force, and Chemical and Air Defence (*Osoaviakhim*). It is necessary to keep our entire people in a state of mobilised readiness in the face of the danger of a military aggression, so that no "chance" and no tricks on the part of our external enemies could take us unawares.

From your letter it is evident that comrade Urozhenko professes different views which are not exactly Lenin's. He appears to assert that "we have now the final victory of Socialism and a

complete security from intervention and restoration of capitalism" There can be no doubt that comrade Urozhenko is radically wrong Such an assertion on the part of comrade Urozhenko can only be explained by a misunderstanding of the surrounding reality and by an ignorance of the elementary principles of Leninism, or else by the empty boasting of a conceited young official If it is true that "we have complete security from intervention and restoration of capitalism," do we then need a strong Red Army, Red Navy, Red Air Force, or a strong *Osoaviakhim*, do we need the strengthening and consolidation of the international proletarian ties? Would it not be better to turn the milliards spent on the reinforcement of the Red Army to some other purpose while reducing the Red Army to a minimum or disbanding it altogether?

As regards the fact that you, comrade Ivanov, have been dismissed from propaganda work and that the question of your membership of the Young Communist League has been raised, you need have no fears on this score

Now you can judge whether a certain passage from the *Problems of Leninism* on the subject of the victory of Socialism in one country has become obsolete I myself should very much like to see it become obsolete and to see such unpleasant things as capitalist surroundings, the danger of military aggression, the danger of restoration of capitalism, etc., disappear from the world But unfortunately those unpleasant things still exist
1st February, 1938,

(Sgd.) I STALIN

169 THE RETREAT FROM UTOPIA

The leaders of the revolution intended to reconstruct the life of Russia along pure Marxian lines In practice, however, practical problems and difficulties have necessitated a compromise with capitalist doctrines Many of the provisions of the constitution of 1936 could not be incorporated into the fundamental law of a bourgeois society without serious disturbance to its life The following extract discusses some Russian developments which reveal "retreats from Utopia" ("Twenty Years of Bolshevism," by a correspondent of *The*

London Times, International Conciliation, No 335, 1937, reprinted from *The London Times*, July 5, 6, and 7, 1937.)¹

When Lenin seized power in Russia in November, 1917, his views on the nature of the State were unimpeachably Marxist. The State, being in its very essence an instrument for the oppression of one class by another, was therefore an evil which could have no place in the classless Communist society. In order to win the victory which would lead to the establishment of the classless society, the proletariat must seize the State machine and turn it against their old oppressors, the bourgeoisie. But the State would remain (for such was its nature) an instrument of class oppression, and it would be used as such by the triumphant proletariat to crush the bourgeoisie. This was, however, only a transitional period. The dictatorship of the proletariat, wrote Lenin, was "not an organization of order, but an organization of war." Once the bourgeoisie had been extinguished or rendered impotent, the State would become a meaningless institution (since there would be nobody left to oppress), and would, in the classic formula of Marx and Engels, "wither away."

In 1917 this Utopian conception, taken over straight from Marx and Engels, was an integral part of Lenin's creed. There is no evidence that his faith in it was ever shaken, though in his last years he once admitted that the transitional period before the State finally disappeared might be "a whole historical epoch." And the odd thing is that this conception still figures in the official creed of the Soviet rulers today. It is one of the most curious of contemporary paradoxes that M. Stalin, who has constructed the most powerful and most arbitrary State machine yet known in history, is compelled from time to time (though more and more rarely nowadays) to affirm that his real aim is the abolition of the State. The formula invented for the last Party Congress does not lack ingenuity. "The highest possible development of the power of the State with the object of preparing the conditions for the dying out of the State" is now M. Stalin's declared policy. The highest possible development of the State is the practice, the dying out of the State is the theory, and what is the good of dialectical materialism if it cannot prove in case of need that black means white and white black? The withering away of the State plays much the same

¹ Reprinted by permission of *International Conciliation*, New York

role in Soviet dogma as the Second Advent in Christian theology. It occupies an essential place in every confession of faith. But since the days of the primitive Church the prospect has not been regarded as imminent or allowed to affect day-to-day practice.

Things in the Soviet Union have not gone quite so easily as that. It has become of late increasingly difficult, even in a country where the suppression of free thought is carried to the pitch of perfection, to disguise the fact that this "highest possible development of the power of the State" has knocked Marxism sideways. The State, it is true, retains the ownership and control of industrial production. But in this respect the Soviet State has only carried to its logical conclusion a development which has also made gigantic strides in many capitalist countries. If (as Engels acutely observed) the taking over of industries by the State is socialism, then Napoleon, who nationalized the tobacco industry in France, must count as one of the founders of socialism. In that sense M. Stalin may be permitted to rank with Napoleon. In any other sense his claim to be regarded as a Socialist requires careful scrutiny.

The "principle of socialism," we are authoritatively informed by the new Soviet Constitution approved last December, is "From each according to his ability, to each according to his work." Between socialism thus defined and capitalism there seems to be no more than a hair's breadth. After all, the capitalist only takes from the worker "according to his ability" (*la plus belle fille ne peut donner que ce qu'elle a*), and asks for nothing better than to pay him "according to his work," unless the trade unions, more effective in democratic countries than in Soviet Russia, obstruct the adoption of this "Socialist" criterion.

Of the prevalence of such "socialism" in contemporary Russia there is no doubt. Examples have been given in the preceding article of the immense differentiation of wages and salaries in the Soviet Union. The right of inheritance has been restored, deposits in savings banks and investment in State loans (with lottery drawings) are being effectively encouraged, and private incomes derived from "work and savings" are specifically protected by the new Constitution. The creation of privileged grades, whose loyalty to the regime can be counted on, may be either a deliberate part of M. Stalin's policy or a natural consequence of the industrial revolution—or both.

"Side by side with the great majority, exclusively bond slaves to

labor, there arises a class freed from directly productive labor, which looks after the general affairs of society, the direction of labor, State business, law, science, art, etc."

This description, from the pen of Engels, of the rise of capitalism applies word for word to what is now going on in the Soviet Union. The existence in Soviet Russia of "exploitation" in the Marxist sense can only be denied on the unlikely hypothesis that the will of M. Stalin and the will of the worker are one and the same and that the worker is therefore exploiting himself. But if M. Stalin chooses to apply the label of socialism to a system which exhibits so many of the most characteristic symptoms of capitalism, none of his compatriots will dare to say him nay.

The capitalist observer need not be disconcerted to discover that Soviet socialism is, after all, only capitalism writ large. But what of the sincere and intelligent Russian Marxist who remembers the slogans of the glorious revolution of 1917? Trotsky is known today in Soviet Russia, not as Lenin's principal coadjutor, but as the first and most wicked of counter-revolutionaries, and to be found in possession of any of his writings is a capital offense. But how many Russians are there who, whether consciously influenced by Trotsky or not, believe with him that the revolution has been "betrayed" by M. Stalin and his bureaucracy? Is there, in this sense, a "Trotskyist opposition?" The question is difficult to answer.

The treason trials of August and January signally failed to prove the existence of a "Trotskyist conspiracy." But it is hard not to believe that many thousands of "old Bolsheviks" perceive today that the system evolved by M. Stalin is something very different from the system for which the Bolsheviks fought in 1917, and that the present regime, instead of moving towards the promised land of a classless society with no privileges and with distribution "to each according to his needs," is working night and day to establish and maintain a system based on precisely contrary premises. M. Stalin, who may have an uneasy Marxist conscience, clearly suspects the existence of such a body of opinion, and thousands of unadvertised arrests, in addition to the notorious ones, have been made in the past two years in the attempt to eradicate this source of disloyalty to the regime.

CHAPTER XXVIII

SOVIET POLITICAL ORGANIZATION

170 THE CONSTITUTION

FOLLOWING the policy inaugurated in 1933 of enlisting greater popular co-operation and support, the government announced in February, 1935, its intention of securing the adoption of a more democratic Constitution. A committee under the chairmanship of Stalin worked on the document for many months. At an extraordinary session of the All-Union Congress, the Constitution was approved on December 5, 1936, with great cheering and enthusiasm but with no debate. The document contains many interesting features, particularly those which relate to secret popular elections, an independent judiciary, property, and freedom of speech.

There has been a difference of opinion, outside of Russia, as to how democratic the Russian Government has become under this Constitution. Most of the forms of democracy have been introduced, but opposition political parties are not yet tolerated. Consequently the political regime which has been dominant in Russia is not likely to be weakened under the new constitutional arrangements (*Constitution of the Union of Soviet Socialist Republics, 1936, Co-operative Publishing Society, U S S R*)

Chapter I

THE ORGANISATION OF SOCIETY

Article 1 The Union of Soviet Socialist Republics is a socialist state of workers and peasants

Art 2 The political foundation of the U S S R are the Soviets of Toilers' Deputies, which developed and grew strong as a result of the overthrow of the power of the landlords and capitalists and the winning of the dictatorship of the proletariat

Art 3 All power in the U S S R belongs to the toilers of town and country as represented by the Soviets of Toilers' Deputies

Art 4 The economic foundation of the U S S R is the socialist system of economy and the socialist ownership of the implements and means of production firmly established as a result of the liquidation of the capitalist system of economy, the abolition of private property in the implements and means of production and the abolition of exploitation of man by man

Art. 5 Socialist property in the U S S R bears either the form of state property (property of the whole people) or the form of co-operative and collective farm (kolkhoz) property (property of individual collective farms and property of co-operative associations)

Art 6 The land, mineral deposits, waters, forests, mills, factories, mines, railways, water and air transport, banks, means of communication, large state-organised agricultural enterprises such as state farms (sovkhoz), machine and tractor stations and the like, as well as municipal enterprises and the principal dwelling house properties in the cities and industrial localities, are state property, that is, the property of the whole people

Art 7 Public enterprises in collective farms and co-operative organisations, with their livestock and implements, products raised or manufactured by the collective farms and co-operative organisations, as well as their public structures, constitute the public, socialist property of the collective farms and co-operative organisations

Every collective farm household, in addition to its basic income from the public collective farm enterprise, has for its own use a plot of land attached to the house and, as personal property, an auxiliary establishment on the plot, a house, produce animals and

poultry, and minor agricultural implements—in accordance with the statutes of the agricultural artel

Art 8 The land occupied by collective farms is secured to them for their free use for an unlimited time, that is, forever

Art 9 Alongside the socialist system of economy, which is the predominant form of economy in the U S S R, the law permits small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others

Art 10 The right of personal property of citizens in their income from work and in their savings, in their dwelling houses and auxiliary household economy, their domestic furniture and utensils and objects of personal use and comfort, as well as the right of inheritance of personal property of citizens, are protected by law.

Art 11 The economic life of the U S S R is determined and directed by the state plan of national economy for the purpose of increasing the public wealth, of steadily raising the material and cultural level of the toilers, and of strengthening the independence of the U S S R and its power of defence

Art 12 In the U S S R work is the obligation and honourable duty of every able-bodied citizen, in accordance with the principle "He who does not work, neither shall he eat"

In the U S S R the principle of socialism is realised "From each according to his ability, to each according to the work performed"

Chapter II

THE ORGANISATION OF THE STATE

Art 13 The Union of Soviet Socialist Republics is a federated state, formed on the basis of the voluntary association of the following Soviet Socialist Republics possessing equal rights

The Russian Socialist Soviet Federated Soviet Republic

The Ukrainian Soviet Socialist Republic

The Belorussian Soviet Socialist Republic

The Azerbaijan Soviet Socialist Republic

The Georgian Soviet Socialist Republic

The Armenian Soviet Socialist Republic

The Turkman Soviet Socialist Republic

The Uzbek Soviet Socialist Republic

The Tadzhik Soviet Socialist Republic
The Kazakh Soviet Socialist Republic
The Kirghiz Soviet Socialist Republic

Art. 14 The jurisdiction of the Union of Soviet Socialist Republics, as represented by its highest organs of power and organs of state administration, covers

- a) Representation of the Union in international relations, conclusion and ratification of treaties with other states,
- b) Questions of war and peace,
- c) Admission of new republics into the U S S R ,
- d) Supervision over the observance of the Constitution of the U S S R and ensuring that the Constitutions of the Union Republics conform with the Constitution of the U S S R ,
- e) Ratification of alterations of boundaries between Union Republics,
- f) Ratification of the formation of new Territories and Regions and also of new Autonomous Republics within the Union Republics,
- g) Organisation of the defence of the U S S R and the direction of all the armed forces of the U S S R ,
- h) Foreign trade on the basis of state monopoly,
- i) Safeguarding the security of the state,
- j) Determining the plans of national economy of the U S S R ;
- k) Approbation of the unified state budget of the U S S R as well as of the taxes and revenues which go to form the Union, Republican and local budgets,
- l) Administration of the banks, industrial and agricultural establishments and enterprises and trading enterprises of all-Union importance,
- m) Administration of transport and communications,
- n) Direction of the monetary and credit system,
- o) Organisation of state insurance,
- p) Contracting and granting loans,
- q) Determining the basic principles of land tenure and tenure of mineral deposits, forests and waters,
- r) Determining the basic principles in the spheres of education and public health,
- s) Organisation of a uniform system of national economic accounting,
- t) Determining the principles of labour legislation;

u) Legislation governing the judicial system and judicial procedure, criminal and civil codes,

v) Laws governing citizenship of the Union, laws governing the rights of foreigners,

w) Passing of amnesty acts for the entire Union

Art 15. The sovereignty of the Union Republics is restricted only within the limits set forth in Article 14 of the Constitution of the U S S R. Outside of these limits, each Union Republic exercises state power independently. The U S S R. protects the sovereign rights of the Union Republics.

Art 16. Each Union Republic has its own Constitution, which takes into account the specific features of the Republic and is drawn up in full conformity with the Constitution of the U S S R.

Art 17. To every Union Republic is reserved the right freely to secede from the U S S R.

Art 18. The territory of the Union Republics may not be altered without their consent.

Art 19. The laws of the U S S R. have equal force in the territory of all Union Republics.

Art 20. In the event of a discrepancy between a law of a Union Republic and the law of the Union, the all-Union law prevails.

Art 21. Single Union citizenship is established for all citizens of the U S S R.

Art 22-29 [Enumeration of the territorial units in the U S S R.]

Chapter III

THE HIGHEST ORGANS OF STATE POWER OF THE UNION OF SOVIET SOCIALIST REPUBLICS

Art 30. The highest organ of state power of the U S S R. is the Supreme Soviet of the U S S R.

Art 31. The Supreme Soviet of the U S S R. exercises all rights vested in the Union of Soviet Socialist Republics in accordance with Article 14 of the Constitution, in so far as, by virtue of the Constitution, they do not come within the jurisdiction of organs of the U S S R. which are accountable to the Supreme Soviet of the U.S.S.R., i.e., the Presidium of the Supreme Soviet of the U S S R., the Council of People's Commissars of the U S S R. and the People's Commissariats of the U S S R.

Art 32 The legislative power of the U S S R is exercised exclusively by the Supreme Soviet of the U S S R

Art 33 The Supreme Soviet of the U S S R consists of two Chambers the Soviet of the Union and the Soviet of Nationalities

Art 34 The Soviet of the Union is elected by the citizens of the U S S R according to electoral areas on the basis of one deputy for every 300,000 of the population

Art 35 The Soviet of Nationalities is elected by the citizens of the U S S R according to Union and Autonomous Republics, Autonomous Regions and national areas on the basis of twenty-five deputies from each Union Republic, eleven deputies from each Autonomous Republic, five deputies from each Autonomous Region and one deputy from each national area

Art 36 The Supreme Soviet of the U S S R. is elected for a term of four years

Art 37 The two Chambers of the Supreme Soviet of the U S S R, the Soviet of the Union and the Soviet of Nationalities, have equal rights

Art 38 The Soviet of the Union and the Soviet of Nationalities enjoy equal right to initiate legislation

Art 39 A law is considered adopted if passed by both Chambers of the Supreme Soviet of the U S S R, by a simple majority in each

Art 40 Laws adopted by the Supreme Soviet of the U S S R are published in the languages of the Union Republics over the signatures of the Chairman and Secretary of the Presidium of the Supreme Soviet of the U S S R

Art 41. Sessions of the Soviet of the Union and the Soviet of Nationalities begin and terminate simultaneously

Art 42 The Soviet of the Union elects a Chairman of the Soviet of the Union and two Vice-Chairmen

Art 43 The Soviet of Nationalities elects a Chairman of the Soviet of Nationalities and two Vice-Chairmen

Art 44. The Chairmen of the Soviet of the Union and of the Soviet of Nationalities preside over the meetings of the respective Chambers and are in charge of the procedure of these bodies

Art 45. Joint sessions of both Chambers of the Supreme Soviet of the U S S R. are presided over alternately by the Chairman of the Soviet of the Union and the Chairman of the Soviet of Nationalities

Art 46 Sessions of the Supreme Soviet of the U S S R are convened by the Presidium of the Supreme Soviet of the U S S R. twice a year

Extraordinary sessions are convened by the Presidium of the Supreme Soviet of the U S S R at its discretion or on the demand of one of the Union Republics

Art 47 In the event of disagreement between the Soviet of the Union and the Soviet of Nationalities the question is referred for settlement to a conciliation commission established on a parity basis If the conciliation commission fails to arrive at an agreed decision, or if its decision fails to satisfy one of the Chambers, the question is considered for a second time by the Chambers. Failing an agreed decision of the two Chambers, the Presidium of the Supreme Soviet of the U S S R dissolves the Supreme Soviet of the U S S R and appoints new elections

Art 48 The Supreme Soviet of the U S S R at a joint sitting of both Chambers elects the Presidium of the Supreme Soviet of the U S S R, consisting of the Chairman of the Presidium of the Supreme Soviet of the U S S R, eleven Vice-Chairmen, the Secretary of the Presidium and twenty-four members of the Presidium

The Presidium of the Supreme Soviet of the U S S R is accountable to the Supreme Soviet of the U S S R for all its activities

Art 49 The Presidium of the Supreme Soviet of the U S S R

- a) Convenes the sessions of the Supreme Soviet of the U S S R,
- b) Interprets existing laws of the U S S R, promulgates orders,
- c) Dissolves the Supreme Soviet of the U S S R in conformity with Article 47 of the Constitution of the U S S R and appoints new elections;

- d) Conducts a popular canvass (referendum) on its own initiative or on the demand of one of the Union Republics,

- e) Annuls such decisions and orders of the Council of People's Commissars of the U S S R and the Councils of People's Commissars of the Union Republics as do not conform to law,

- f) In the intervals between sessions of the Supreme Soviet of the U S S R, dismisses and appoints People's Commissars of the U S S R, on the recommendation of the Chairman of the Council of People's Commissars of the U S S R, subject to subsequent confirmation by the Supreme Soviet of the U S S R,

- g) Awards decorations and titles of honour of the U S S.R.,

- h) Exercises the right of pardon,

-
- 1) Appoints and dismisses the High Command of the armed forces of the U S S R ,
 - 1) In the intervals between sessions of the Supreme Soviet of the U S S R , proclaims a state of war in the event of armed attack on the U S S R , or whenever required to fulfil international treaty obligations concerning mutual defence against aggression,
 - k) Proclaims general or partial mobilisation,
 - l) Ratifies international treaties,
 - m) Appoints and recalls plenipotentiary representatives of the U S S R to foreign states,
 - n) Accepts the credentials and letters of recall of diplomatic representatives of foreign states accredited to it
- Arts 50-56 [Enumerates minor functions of the Supreme Council]

Chapter IV

THE HIGHEST ORGANS OF STATE POWER OF THE UNION REPUBLICS

Art 57 The highest organ of state power of a Union Republic is the Supreme Soviet of the Union Republic

Art. 58 The Supreme Soviet of a Union Republic is elected by the citizens of the Republic for a term of four years

The rates of representation are determined by the Constitutions of the Union Republics.

Art 59 The Supreme Soviet of a Union Republic is the sole legislative organ of the Republic

Arts 60-63 [Functions of the Supreme Soviet of a Union Republic.]

Chapter V

THE ORGANS OF STATE ADMINISTRATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS

Art 64 The highest executive and administrative organ of state power of the Union of Soviet Socialist Republics is the Council of People's Commissars of the U S S R

Art 65 The Council of People's Commissars of the U S S R is responsible to the Supreme Soviet of the U S S R, and accountable

to it, and in the intervals between sessions of the Supreme Soviet it is responsible and accountable to the Presidium of the Supreme Soviet of the U.S.S.R.

Art 66 The Council of People's Commissars of the U.S.S.R. issues decisions and orders on the basis and in pursuance of the laws in operation, and supervises their execution

Art 67 Decisions and orders of the Council of People's Commissars of the U.S.S.R. are binding throughout the entire territory of the U.S.S.R.

Art 68 The Council of People's Commissars of the U.S.S.R.

a) Co-ordinates and directs the work of the all-Union and Union-Republican People's Commissariats of the U.S.S.R. and of other economic and cultural institutions under its jurisdiction,

b) Adopts measures to carry out the plan of national economy and the state budget and to strengthen the credit and monetary system,

c) Adopts measures for the maintenance of public order, for the protection of the interests of the state, and for safeguarding the rights of citizens,

d) Exercises general control in the sphere of relations with foreign states,

e) Determines the annual contingent of citizens to be called up for military service and directs the general organisation and development of the armed forces of the country,

f) Forms, whenever necessary, special committees and Central Boards under the Council of People's Commissars of the U.S.S.R. for matters concerning the development of economy, culture and defence

Art 69 The Council of People's Commissars of the U.S.S.R. has the right, in respect to those branches of administration and economy which come within the jurisdiction of the U.S.S.R., to suspend decisions and orders of the Councils of People's Commissars of the Union Republics and to annul orders and instructions of People's Commissars of the U.S.S.R.

Art 70 The Council of People's Commissars of the U.S.S.R. is formed by the Supreme Soviet of the U.S.S.R. and consists of

The Chairman of the Council of People's Commissars of the U.S.S.R.

The Vice-Chairmen of the Council of People's Commissars of the U.S.S.R.

The Chairman of the State Planning Commission of the USSR

The Chairman of the Commission of Soviet Control

The People's Commissars of the USSR

The Chairman of the Committee of Agricultural Stocks

The Chairman of the Committee of Arts

The Chairman of the Committee of Higher Education

Arts 71-75 [Procedures of People's Commissars]

Art 76 The Union-Republican People's Commissariats direct the branches of state administration entrusted to them as a rule through the medium of identically named People's Commissariats of the Union Republics, under their immediate direction they have only a definite and limited number of enterprises according to a list confirmed by the Presidium of the Supreme Soviet of the USSR

Art 77 The following People's Commissariats are all-Union People's Commissariats

Defence

Foreign Affairs

Railways

Postal and Electrical Communications

Water Transport

Heavy Industry

Defence Industry

Art 78. The following People's Commissariats are Union-Republican People's Commissariats

Food Industry

Light Industry

Timber Industry

Agriculture

State Grain and Livestock Farms

Finance

Internal Trade

Internal Affairs

Justice

Public Health

Arts 79-93 [Descriptions of organs of state administration of the Union Republics]

Chapter VIII

THE LOCAL ORGANS OF STATE POWER

Art 94 The organs of state power in territories, regions, autonomous regions, areas, districts, cities and rural localities (*stanitsa*, village, hamlet, *kishlak*, aul) are the Soviets of Toilers' Deputies

Art 95 The Soviets of Toilers' Deputies of territories, regions, autonomous regions, areas, districts, cities and rural localities (*stanitsa*, village, hamlet, *kishlak*, aul) are elected by the toilers in the respective territories, regions, autonomous regions, areas, districts, cities or rural localities for a term of two years

Art 96 The rates of representation for Soviets of Toilers' Deputies are determined by the Constitutions of the Union Republics

Arts 97-98 [Duties of Soviets of Toilers' Deputies]

Art 99 The executive and administrative organs of the Soviets of Toilers' Deputies of the territories, regions, autonomous regions, areas, districts, cities and rural localities are the Executive Committees elected by them, consisting of a Chairman, Vice-Chairmen, Secretary and members

Arts 100-101 [Duties of Executives of Toilers' Soviets]

Chapter IX

THE COURTS AND THE PROCURATOR'S OFFICE

Art 102 Justice in the USSR is administered by the Supreme Court of the USSR, the Supreme Courts of the Union Republics, the Territorial and Regional courts, the courts of the Autonomous Republics and Autonomous Regions, area courts, special courts of the USSR established by decision of the Supreme Soviet of the USSR, and the People's Courts

Art 103 In all courts cases are tried with the assistance of people's assessors, except in cases specially provided for by law

Art 104 The Supreme Court of the USSR is the highest judicial organ. The Supreme Court of the USSR is charged with the function of supervising the judicial activities of all the judicial organs of the USSR and of the Union Republics

Arts 105-110 [Election and organisation of the Courts]

Art 111 In all courts of the USSR cases are heard in public,

unless otherwise provided by law, and the accused is guaranteed the right of defence

Art 112 Judges are independent and subject only to the law

Art 113 Highest supervision over the strict execution of the laws by all People's Commissariats and institutions subordinated to them, as well as by official persons and by citizens of the U S S R , is vested in the Procurator of the U S S R .

Art 114-117 [Describe prosecutor's office]

Chapter X

THE FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 118. Citizens of the U S S R have the right to work, i.e., the right to guaranteed employment and payment for their work in accordance with its quantity and quality

The right to work is ensured by the socialist organisation of national economy, the steady growth of the productive forces of Soviet society, the preclusion of the possibility of economic crises, and the abolition of unemployment

Art 119 Citizens of the U S S R have the right to rest and leisure

The right to rest and leisure is ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, the institution of annual vacations with pay for workers and other employees and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the toilers

Art 120 Citizens of the U S S R have the right to maintenance in old age and also in case of sickness or loss of capacity to work

This right is ensured by the wide development of social insurance of workers and other employees at state expense, free medical service, and the provision of a wide network of health resorts for the accommodation of the toilers

Art 121. Citizens of the U S S R have the right to education

This right is ensured by universal, compulsory elementary education; by the fact that education, including higher (university) education is free of charge, by the system of state scholarships for the overwhelming majority of students in the higher schools, by instruction in schools being conducted in the native language, and by the organisation of free vocational, technical and agronomic

training for the toilers in the factories, state farms, machine and tractor stations and collective farms

Art. 122 Women in the U S S R are accorded equal rights with men in all spheres of economic, state, cultural, social and political life

The possibility of exercising these rights of women is ensured by affording women equally with men the right to work, payment for work, rest and leisure, social insurance and education, and by state protection of the interests of mother and child, maternity leave with pay, and the provision of a wide network of maternity homes, nurseries and kindergartens

Art 123 The equality of the rights of citizens of the U S S R, irrespective of their nationality or race, in all spheres of economic, state, cultural, social and political life, is an indefensible law

Any direct or indirect restriction of the rights of, or, conversely, the establishment of direct or indirect privileges for citizens on account of their race or nationality, as well as the advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Art 124 In order to ensure to citizens freedom of conscience, the church in the U S S R is separated from the state, and the school from the church Freedom of religious worship and freedom of anti-religious propaganda is recognised for all citizens

Art 125 In conformity with the interests of the toilers, and in order to strengthen the socialist system, the citizens of the U S S R are guaranteed by law

- a) freedom of speech,
- b) freedom of the press,
- c) freedom of assembly and of holding mass meetings,
- d) freedom of street processions and demonstrations

These rights of the citizens are ensured by placing at the disposal of the toilers and their organisations printing presses, stocks of paper, public buildings, the streets, means of communication and other material requisites for the exercise of these rights

Art 126 In conformity with the interests of the toilers, and in order to develop the organisational initiative and political activity of the masses of the people, citizens of the U S S R are ensured the right to unite in public organisations—trade unions, co-operative associations, youth organisations, sport and defence organisations, cultural, technical and scientific societies, and the most

active and politically conscious citizens in the ranks of the working class and other strata of the toilers unite in the Communist Party of the U S S R which is the vanguard of the toilers in their struggle to strengthen and develop the socialist system and which represents the leading core of all organisations of the toilers, both public and state

Art 127 The citizens of the U S S R are guaranteed inviolability of person No person may be placed under arrest except by decision of court or with the sanction of a procurator.

Art 128 The inviolability of the homes of citizens and secrecy of correspondence are protected by law

Art 129 The U S S R grants the right of asylum to foreign citizens persecuted for defending the interests of the toilers or for their scientific activities or for their struggle for national liberation

Art 130 It is the duty of every citizen of the U S S R to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist human intercourse

Art 131 It is the duty of every citizen of the U S S R to safeguard and fortify public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperous and cultural life of all the toilers

Persons encroaching upon public, socialist property are enemies of the people

Art 132 Universal military service is a law.

Military service in the Workers' and Peasants' Red Army is an honourable duty of the citizens of the U S S R

Art 133 To defend the fatherland is the sacred duty of every citizen of the U S S R Treason to the country—violation of the oath, desertion to the enemy, impairing the military power of the state, or espionage—is punishable with all the severity of the law as the worst of crimes

Chapter XI

THE ELECTORAL SYSTEM

Art 134 Members of all Soviets of Toilers' Deputies—of the Supreme Soviet of the U S S R, the Supreme Soviets of the Union

Republics, the Soviets of Toilers' Deputies of the Territories and Regions, the Supreme Soviets of the Autonomous Republics, the Soviets of Toilers' Deputies of Autonomous Regions, area, district, city and rural (*stanitsa*, village, hamlet, *kishlak*, aul) Soviets of Toilers' Deputies—are elected by the electors on the basis of universal, equal and direct suffrage by secret ballot.

Art 135 Elections of deputies are universal all citizens of the U S S R who have reached the age of 18, irrespective of race or nationality, religion, standard of education, domicile, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of the insane and persons convicted by court of law to sentences including deprivation of rights

Art 136 Elections of deputies are equal every citizen is entitled to one vote, all citizens participate in elections on an equal footing

Art 137 Women have the right to elect and be elected on equal terms with men

Art 138 Citizens serving in the Red Army have the right to elect and be elected on equal terms with all other citizens

Art 139 Elections of deputies are direct all Soviets of Toilers' Deputies, from rural and city Soviets of Toilers' Deputies up to and including the Supreme Soviet of the U S S R are elected by the citizens by direct vote

Art 140 Voting at elections of deputies is secret

Art. 141 Candidates are nominated for election according to electoral areas

The right to nominate candidates is ensured to public organisations and societies of toilers Communist Party organisations, trade unions, co-operatives, youth organisations and cultural societies

Art 142 It is the duty of every deputy to report to the electors on his work and on the work of the Soviet of Toilers' Deputies, and he is liable to be recalled at any time in the manner established by law upon decision of a majority of the electors

Chapter XIII

THE PROCEDURE FOR AMENDING THE CONSTITUTION

Art 146 The Constitution of the U S S R may be amended only by decision of the Supreme Soviet of the U S S R. adopted by

a majority of not less than two-thirds of the votes cast in each of its Chambers

171 THE COMMUNIST PARTY AND THE SOVIET GOVERNMENT

The relation of the Communist party to the Soviet government in Russia and its role in guiding and controlling the policies of that government are brought out in Stalin's reply to the question addressed to him by the First American Labor Delegation "Is it correct to say that the Communist party controls the Russian government?" (Joseph Stalin, *Leninism*, 1930, pp 48-50) ¹

It all depends upon what is meant by control. In capitalist countries they have a rather curious conception of control. I know that a number of capitalist governments are controlled by big banks, notwithstanding the existence of "democratic" parliaments. The parliaments assert that they alone control the government. As a matter of fact, the composition of the governments is predetermined, and their actions are controlled by the great financial consortiums. Who does not know that there is not a single capitalist "Power" in which the cabinet can be formed in opposition to the will of the big financial magnates? It is sufficient to exert financial pressure to cause cabinet ministers to fall from their posts as if they were stunned. This is real control exercised by banks over governments in spite of the alleged control by parliament. If such control is meant, then I must declare that the control of the government by money-bags is inconceivable and absolutely excluded in the U S S R, if only for the reason that banks have been nationalized long ago and the money-bags have been ousted. Perhaps the delegation did not mean control, but the guidance exercised by the Party in relation to the government. If that is what the delegation meant by its question, then my reply is: Yes, our Party does guide the government and the Party is able to guide the government because it enjoys the confidence of the majority of the workers and the toilers generally, and it has the right to guide the organs of the government in the name of this majority.

¹ Reprinted by permission of the International Publishers, New York.

In what is the guidance of the Government by the worker's Party in the U S S R expressed?

First of all it is expressed in that the Communist Party strives, through the Soviets and their Congresses, to secure the election to the principal posts in the Government of its own candidates, its best workers, who are loyal to the cause of the proletariat and prepared truly and faithfully to serve the proletariat. Thus it succeeds in doing in the overwhelming majority of cases because the workers and peasants have confidence in the Party. .

Secondly, the Party supervises the work of the administration, the work of the organs of power, it rectifies their errors and defects, which are unavoidable, it helps them to carry out the decisions of the government and strives to secure for them the support of the masses. It should be added that not a single important decision is taken by them without the direction of the Party.

Thirdly, when the plan of working is being drawn up by the various Government organs, in industry or agriculture, in trade or in cultural work, the Party gives general leading instructions defining the character and direction of the work of these organs in the course of carrying out these plans.

The bourgeois Press usually expresses "astonishment" at this "interference" by the Party in the affairs of the Government. But this "astonishment" is absolutely hypocritical. It is well known that the bourgeois Parties in capitalist countries "interfere" in the affairs of the Government and guide the Government, and, moreover, that in these countries this guidance is concentrated in the hands of a narrow circle of individuals connected in one way or another with the big banks, and because of that they strive to conceal the part they play in this from the people.

172 THE RUSSIAN ELECTORAL LAW

The Constitution of 1936 permits all citizens of the U S S R from eighteen years of age, irrespective of nationality, religion, education, property, and social origin, to vote, except persons who are insane or those condemned by a court with loss of franchise (Art. 135). Men and women enjoy the right to vote and hold office on equal terms (Art. 137). The election procedure must insure secrecy to voters (Art. 134).

In order to carry out these provisions of the Constitution an electoral law was promulgated on July 9, 1937. It regulates the conduct of elections, dealing with such matters as the registration of voters, electoral wards, electoral commissions, nomination of candidates, and voting procedure. Extracts from the law follow ("Soviet Legislation," *The Slavonic Review*, XVI, 1937-38, 458-67.)¹

LISTS OF ELECTORS

Article 7 The lists of electors are compiled in the towns by the municipal council of workers' deputies, and in towns with district divisions—by the district council, in rural districts—by the village (*stanitsa*, village, hamlet, *kishlak*, aul) council of workers' deputies.

Art 8 In the lists are included all citizens possessing the right of vote and domiciled (permanently or temporarily) within the territory of the Council, at the time of drawing up the lists, and having attained 18 years of age . . .

THE CONSTITUTION FOR ELECTIONS TO THE COUNCIL OF THE UNION AND THE COUNCIL OF NATIONALITIES

Art 20 On the basis of Art 34 of the Constitution of the USSR the Council of the Union is elected by the citizens of the USSR in constituencies.

Art 21 A constituency for elections to the Council of the Union is formed on the principle of a population of 300,000 to the constituency. Each constituency for elections to the Council of the Union sends one member.

Art 22 On the basis of Art 35 of the Constitution of the USSR the Council of Nationalities is elected by the citizens of the USSR in constituencies. A constituency for elections to the Council of Nationalities is formed on the principle: 25 constituencies in each Republic of the Union, 11 constituencies in each Autonomous Republic, 5 constituencies in each Autonomous Region and 1 constituency in each National District. Each constituency for elections to the Council of Nationalities sends one member.

¹ Reprinted by permission of *The Slavonic Review*, London.

ELECTORAL WARDS

Art 25 For the receipt of the voting papers and the counting of votes, the area of towns and districts forming a constituency is divided into electoral wards, which are common for elections both to the Council of the Union and the Council of Nationalities.

Art 26 The electoral wards in the towns are determined by the municipal Councils of workers' deputies, in towns with regional divisions—by regional Councils of workers' deputies, in rural districts—by district Councils of workers' deputies . .

ELECTORAL COMMISSIONS

Art. 34 The central electoral commission for elections to the Supreme Council of the U S S R is composed of representatives of public organisations and workers' associations, and is confirmed by the Presidium of the Supreme Council of the U S S R simultaneously with the publication of the date of the polling-day

Art 35 The central electoral commission consists of a chairman, deputy chairman, secretary and 12 members

Art 36 The Central electoral commission

(a) supervises the correct execution throughout the territory of the U S S R during the process of elections of the "Act on the Order and Procedure of Elections to the Supreme Council of the U S S R",

(b) examines complaints against unlawful proceedings of the electoral commissions and pronounces final decisions on such complaints,

(c) determines the shape of the ballot boxes, the form of the "certificate of the right to vote," the shape and colour of the voting papers and their envelopes, the form of the lists of electors, the form of the protocols for the counting of votes, the form of the certificates of election,

(d) registers the deputies elected to the Supreme Council,

(e) hands over to the mandatory commissions of the Council of the Union and of the Council of Nationalities the record of the elections.

Art 37 Union, Autonomous Republican, Autonomous Regional District electoral commissions are set up in every Union and Autonomous Republic, Autonomous Region and National District .

THE PROCEDURE OF NOMINATION OF CANDIDATES

Art 56 The right to nominate candidates to the Supreme Council to the U S S R belongs to public organisations and workers' associations on the basis of Art 141 of the Constitution of the U S S R, Communist Party organisations, Trade Unions, Co-operatives, Youth organisations, cultural societies and other legally registered organisations

Art 57 The right to nominate candidates is exercised both by the central organs of public organisations and workers' associations and by their republican, territorial, regional and district organs, also by general meetings of workers and employees in concerns, by Red Army men—Army units—and by general meetings of peasants in collective farms, and workers and employees on state farms

Art 58 Candidates cannot be members of Divisional electoral commissions for election to the Council of the Union and the Council of Nationalities, nor of District electoral commissions in the Division in which they are nominated as candidates

Art 59 Not later than 30 days before polling-day, all public organisations or workers' associations which nominate candidates for election to the Supreme Council of the U S S R must register the candidates either in the Divisional electoral commission for elections to the Council of the Union, or in the Divisional electoral commission for elections to the Council of Nationalities respectively

Art 60 The Divisional electoral commissions for elections to the Council of the Union or the Council of Nationalities respectively must register all candidates for election to the Supreme Council of the U S S R nominated by public organisations and workers' associations in conformity with the Constitution of the U S S R and the Act on the Order and Procedure of Elections to the Supreme Council of the U S S R . . .

Art 65 The surname, name, patronymic, age, occupation, Party status of each registered candidate for election to the Supreme Council of the U S S R. and the name of the organisation by which he was nominated, are published respectively either by the Divisional electoral commission for election to the Council of the Union or by the Divisional electoral commission for election to the Council of the Union or by the Divisional electoral commission for

elections to the Council of Nationalities, not later than 25 days before polling-day . . .

PROCEDURE OF VOTING

Art 71 Elections to the Supreme Council of the U S S R. take place on a single day—the same for the entire U S S R.

Art 72 Polling-day for the Supreme Council of the U S S R is fixed by the Presidium of the Supreme Council of the U S S R in conformity with Art. 54 of the Constitution of the U S S R., not later than 2 months before the date of elections Polling takes place on a holiday

Art 73. Daily during the last 20 days before the elections, the District electoral commission publishes or otherwise widely advertises to the electors the date and place of the elections.

Art 74 Voting takes place on polling-day between 6 A. M. and 12 midnight

Art 75 From 6 A. M. on polling-day the chairman of the District electoral commission, in the presence of the other members, examines the ballot-boxes and verifies the legally drawn-up registers of electors, after which he closes and stamps the ballot-boxes with the seal of the commission and invites the electors to proceed with the voting

Art 76 Each elector votes personally, arriving for the purpose at the polling station, the voting being performed by dropping the voting papers in a sealed envelope into the ballot-box

Art 77 At the polling station a special room is allotted for filling in the voting papers, in which no person, including members of the District electoral committee, is allowed to be present during the voting, except the voters, should several voters be admitted simultaneously for filling in the voting papers, the room must be provided with partitions or screens, according to the number of persons admitted

Art 78 A voter presenting himself at the polling-station must present to the secretary of the District electoral commission either passport, collective farm book, trade union certificate or any other certificate of identity, and after verification on the list of electors and checking off on the list of electors, the voter receives the voting paper and envelope of the approved form

Art 79 Voters presenting themselves at the polling-station with a "certificate of the right to vote," according to Art 15 of the pres-

ent Act on the Order and Procedure of Elections to the Supreme Council of the U.S.S.R., are registered by the District electoral commission on a special list, which is added to the list of electors.

Art 80 In the room reserved for filling in the voting papers, the voter leaves on each voting paper the name of the candidate he wishes to elect, striking out the rest, having sealed the voting paper in an envelope, the voter proceeds to the room where is sitting the District electoral commission and places the envelope with the voting paper in the ballot-box

Art 81 Voters incapable, owing to illiteracy or any physical disablement, of themselves filling-in the voting papers, have the right to invite another voter into the voting-room to fill-in their voting paper

Art 82 Election canvassing at the polling-station during the polling is prohibited

Art 83. The Chairman of the commission is responsible for the maintenance of order at the polling-station, and his orders are compulsory for all present

Art 84 At 12 midnight the chairman of the District electoral commission declares polling to be ended, and the commission proceeds to the opening of the ballot-boxes

173 THE SUPREME COUNCIL

Under the Constitution of 1922 the Central Executive Committee, or Tzik, was the representative body of the Soviet Union. Its work was largely perfunctory, for it could not legislate freely. It could only approve policies adopted by the Communist leaders. Under the new Constitution the legislative body is known as the Supreme Council. It consists of two chambers, the Soviet (Council) of the Union and the Soviet (Council) of Nationalities. Both are elected by the people, but the Nationalities Soviet is representative of the autonomous republics which make up the Russian federation. According to the constitution this new parliament is the "highest organ of state power in the U.S.S.R.," and possesses "exclusively" the "power to legislate."

The extract below is an account of the first election of the

Supreme Council, which occurred on December 12, 1937, and a description of the first session that convened on January 12, 1938. As the article shows, the exact position which the Supreme Council will fill in the new constitutional system is still uncertain (*The Slavonic Review*, XVI, 1937-38, 718-22) ¹

The first general elections under the new Soviet Constitution were held on 12 December, 1937, when 569 deputies for the Soviet of the Union and 574 deputies for the Soviet of Nationalities were balloted and elected. The two Soviets together will constitute the new Supreme Soviet, with a total membership of 1,143 deputies. Each deputy in the Soviet of the Union represents 300,000 of the population, the Soviet of Nationalities consists of 25 deputies for each Union Republic, 11 for each autonomous republic, 5 for each autonomous district and 1 for each national district.

The elections unquestionably constituted the big event of the year, even overshadowing the twentieth anniversary of the October Revolution. While differing from elections in countries where the party system operates, the Soviet elections nevertheless offered opportunity for the population to express themselves for or against the single list of unopposed candidates which stood before the country, of course under the conditions of political dictatorship. In two districts only were there more than one candidate, and here the candidates declared themselves as not opposing each other, but as all standing for the Stalin socialist programme. All candidates represented the "Party and non-Party Block."

All persons of sane mind, 18 years or older, were entitled to vote. Out of the total population of 169,000,000 there were 94,138,159 who registered as voters, and 91,113,153 who actually voted, viz, 96 per cent. Of this number 89,844,271 (98.6 per cent) voted for candidates in the Soviet of the Union, and 89,003,169 (97.8 per cent) for candidates in the Soviet of Nationalities. First reports stated that faulty ballots numbered 61,784, and that ballots with names scratched totalled 134,914, later the number of scratched ballots was reported to be 1,334,124, and more than 2,000,000 votes were invalidated in other ways. Of the 1,143 deputies, 855 are members of the Communist Party, 288 are non-Party. One hundred and eighty-four are women.

In the Union Soviet there were 247 workers, 130 peasants, 169

¹ Reprinted by permission of *The Slavonic Review*, London.

office workers or soviet intelligentsia, in the Soviet of Nationalities, 218 workers, 200 peasants, 156 office workers and intelligentsia. Taking the two houses together, 908 of the 1,145 deputies were persons holding official positions in the government apparatus, 235 were not in government service, 870 were members of the Communist Party. Of the 569 deputies in the Union Soviet, only 183 were 41 years or older, in the other house, only 129 were 41 or older.

The first joint session took place on the 15th, when changes in the Constitution were voted. Articles 22, 23, 26, 28 and 29 were altered to adjust administrative divisions in the territory of the U S S R. There were added, art. 49, giving to the Praesidium, viz., the permanent organ, the right to "declare martial law in separate districts or in the whole U S S R to preserve public order and the safety of the state", art. 77, to establish three new state commissariats, viz., Machine Construction, Navy and Grain Collection, constituted since the adoption of the Constitution, articles 70, 78 and 83, to make adjustments in the structure of the executive organ of government.

On the 17th followed the long-awaited election of the President, Vice-Presidents and members of the Praesidium of the Supreme Council. Contrary to some expectations, Kalinin was elected President, and Stalin simply elected one of the 24 members. At this session, Molotov, as President of the Soviet of People's Commissaries, presented the resignation of this body, in accordance with art. 70, to permit the election of the new Sov. Nar. Kom. by the Supreme Council. Thereupon followed three significant speeches criticising the work of certain of the resigning commissaries, after which the Council gave a vote of confidence in Molotov and instructed him to propose the membership of a new government, to be approved by the Council.

The speeches of Zhdanov, Bagirov and Kossior were the only points in the whole Congress upon which a difference of opinion among the deputies might have developed, and even here the criticisms so plainly reflected the present general mood that no parliamentary debate could be expected.

The only danger spot was foreign affairs, and probably Soviet citizens, as well as the world abroad, wondered if Litvinov would survive the criticism, coming as it did so soon after the purge in his Commissariat, which cost a number of diplomats and high officials

their lives or their posts. Consequently, when Molotov took the floor at the joint session on the 19th to present his cabinet list, interest was especially high. He admitted that the Government had not adequately dealt with the matter of consulates until just recently. With astonishing boldness, he declared that "several foreign consuls have been occupied with inadmissible affairs of hostile, anti-Soviet espionage, and of a wrecking character," and named consulates which had been closed or were proposed for closing. As regards Manchukuo, he more diplomatically stated that "we shall certainly carry through the measures required of us." Similarly, regarding France, he contented himself with giving an assurance that "the necessary instructions would be given to the Commissary for Foreign Affairs." The other criticisms were easily dealt with, by an intimation of a change of the officials in charge. Thus ended the interpellation, and the only "debate" of the Congress. Molotov thereupon presented his list of People's Commissaries, the names being unanimously approved as read by show of hands, the manner of voting used throughout the Congress.

The presiding officer announced that all items on the agenda had been dealt with, and declared the First Session of the Supreme Council adjourned. Some peculiarities of the Council session may be noted. First, there were no parties in the usual sense, or "fractions," as at the Soviet meetings of 1917-1918. Neither was there any spontaneous speaking to measures under debate or to points of order. Possibly at a subsequent session deputies will feel more at home and take greater advantage of the rules, the principal features of which are the following: (1) any group of 50 deputies may have its spokesman, (2) personal declarations and comments may be presented in writing to be read by the President, (3) special questions presented in writing are to be read out immediately by the President. The resolutions actually presented in this session came in the name of "a group of deputies from Moscow, Leningrad, Kiev and Tashkent," or "a group of delegates of the R S F S R, Ukraine, Belorussia," etc., and of an unexplained body, "the Soviet of elders of both houses," which may have been the steering committee, though such a body is not mentioned either in the Constitution or in the rules of the Council. Second, if one is to judge from the first Session, the deputies came to Moscow not so much for the purpose of proposing legislation as for instruction. This seems the more likely when one bears in mind that 870 were

members of the Party and thus subject to discipline, and that 908 out of the 1,143 were already a part of the government apparatus before election

The power and authority of the Supreme Council cannot yet be considered equivalent to its exalted name. No reports on any of the great national problems were presented to it, whereas on the 18th, when there was no regular sitting of the congress, there was a meeting of the Plenum of the Communist Party at which the outgoing, but re-elected, Commissary for Agriculture, Eiche, made a detailed report on the agricultural situation (published in *Izvestia*, 22 January, three days after the closing of the session of the Council). A bulletin regarding this "regular session" of the Party Plenum states that the "Plenum reviewed the questions before the Supreme Council and took the necessary decisions." Also it "reviewed a number of economic questions and took the necessary decisions." On the other hand, the new Praesidium of the Council, meeting on 24 January, busied itself chiefly with decisions to punt the reports of the Session, to establish an official journal, and similar routine matters. Coming months will reveal the measure in which the Soviet of People's Commissaries, as the executive body elected by the Council, will exercise its function under the direction of the Praesidium of the Council, and how far under the Plenum of the Party.

174 JOSEPH STALIN—SECRETARY OF THE COMMUNIST PARTY

In 1924, Lenin, who together with Trotsky had been the original leader of the Revolution, died. After a short period of adjustment and uncertainty Stalin emerged as dictator, but not without subduing opposition. The following description of the man, his rise to power, and his political doctrines is given by a well-known writer on Russian affairs. (Walter Duranty, "The Man of Steel Lives up to His Name," *The New York Times*, November 8, 1936, Magazine Section, p. 9) ¹

When the Bolshevik Revolution took place Stalin was already a man of great influence in the Bolshevik party, both because of

¹ Reprinted by permission of *The New York Times*.

his unswerving allegiance to Lenin, to whose star he had hitched his wagon, as he told me himself, since he first became acquainted with Lenin's writings, and because of past revolutionary activities which began in 1896, when he was a boy of 17, in his native land of Georgia

As early as 1906 Stalin, or Man of Steel (his real name was Joseph Vissarionovich Djughashvili), became a thorn in the flesh of the Czarist Ochrana. In that year he organized the "expropriation" of the treasure of the Bank of Tiflis when it was being removed from the bank to the railroad station to be sent to Moscow for safekeeping. The convoy was bombed in the central square of the "Old Town," and armed revolutionaries got away with millions of dollars of loot.

When the revolutionary movement was suppressed that Spring, most of its leaders fled abroad, but Stalin remained in Russia and continued a desperate struggle against overwhelming odds. After many escapes from prison and from Siberia he was sentenced to imprisonment for life in the middle of 1912, but he soon escaped again and actually directed the action of the small Bolshevik group in the Duma which was summoned that Winter. During those years, when the Bolshevik cause seemed hopeless, he maintained the party organization with incredible risk and difficulty under the very noses of the Czarist police. To them he was a "malignant revolutionary" with a dozen aliases.

In March, 1913, he was captured once again and exiled for life to the townlet of Turukhansk in the far Siberian north, so remote from other human habitation that no escape was possible. Even there the indomitable will and tireless perseverance which are Stalin's outstanding characteristics never faltered. Somehow he managed to receive news from Russia and even to advise his comrades about policy and tactics. Far from being cowed by the prospect of a living death, it is said that he devoted himself to fishing and hunting and outshot his guards in the pursuit of bears, feathered game and the great Siberian wolves.

After the fall of the Czar in the beginning of March, 1917, Stalin shared the amnesty extended by the new Kerensky government to political prisoners, but it was not until midsummer that he managed to reach Petrograd and resume his duties as a member of the Central Committee of the Bolshevik party, to whose inner steering committee, or "Politburo," he was elected a few weeks later.

During the three months which preceded the Revolution of Nov 7, Lenin was absent from Petrograd, hiding for his life in a haystack just across the Finnish border, yet always in close touch with events in the Russian capital. In those weeks Stalin learned to distrust the brilliant individualism of Leon Trotsky, a most recent recruit to the Bolshevik party from his own special brand of men-shevism, and to despise the pusillanimity and hesitation of some of the "Western" exiles, who had lived softly and safe in France or Switzerland while their comrades on Russian soil waged unequal combat against the ubiquitous and ruthless Ochrana.

True, Lenin himself had been one of that group of exiles, but in Lenin's clear analysis of men and time and circumstance there was no flow of doubt or weakness. Stalin's loyalty and admiration for his leader may well have had the psychological effect of sharpening his dislike and contempt for men like Kameneff and Zinovieff, who had shared Lenin's confidence abroad for many years, yet who on the eve of the Revolution shrank from the decisive step and published an article which was not only cowardly but might, by its implied and expressed admissions, have proved fatal to the Bolshevik plans. Poltroons and traitors Lenin called these men, and his bitter words must have found a ready echo in the heart of Stalin, who never forgives or forgets.

In looking back on the struggle between Stalin and the Opposition, which may almost be said to have begun with his appointment as General Secretary of the party committee in March, 1922, and to have lasted until the end of 1927, it is not difficult to recognize two salient factors by which the course of events was decided.

First of all, the odds in Stalin's favor were much greater than they appeared at the beginning. He controlled the party secretariat, which under his skillful management became the nerve system of the whole Bolshevik organization, extending from its central brain—Stalin's brain—through the body and limbs of the Bolshevik party to its remotest extremities. The eventual defeat of his adversaries was the inevitable result of co-ordination and unity acting against heterogeneous and often mutually hostile groups and individuals.

In the second place, there is little doubt that Stalin's national policy, both in internal and external affairs, corresponded more closely than that of his adversaries to the realities of the situation at home and abroad. The Opposition, led by Trotsky, persisted

in adhering to what is described as the essential principles of bolshevism first, the theory of imminent world revolution and the duty of Bolsheviks to do their utmost to bring it about, second, the parallel duty of imposing 100 per cent communism as rapidly as possible at home. These men failed to realize that Lenin's introduction of the New Economic Policy in 1921, which they had bitterly opposed and Stalin had supported, was, by its bid for foreign assistance and its toleration for small private enterprise, a tacit admission of the failure of the world revolutionary movement and of extreme, or "militant," communism in Russia.

The question of Stalin's personal popularity has given rise to much discussion abroad about "Stalin-worship" in the Soviet Union. Extravagant as the professions of love and loyalty to Stalin may seem in Western eyes, they are fully in keeping with Oriental mentality, which has an almost superstitious reverence for absolute authority.

In revolutions, too, there is a certain mysticism, which is comprehensibly expressed by the old Chinese theory that the Emperor was the Son of Heaven and that everything he did was inspired by divine authority until he was overthrown by revolution, which of itself was the proof that heaven had renounced its son and had chosen another in his place.

CHAPTER XXIX

SOCIAL, ECONOMIC
AND POLITICAL PROBLEMS

175 ECONOMIC PLANNING

THE Soviet Government has been intent on a program of socialization and of improvement in living conditions. This has required a system of planning for the increased productivity of the country, and for the co-ordination of economic activities into a unified program. The first and second Five-Year Plans, which covered the period from 1928 to 1937, were tremendous efforts to control economic life on a huge scale. A third Five-Year Plan was prepared but was not announced until March, 1939. In the meantime a transitional plan was put into operation for 1938. In general the recent tendency has been to decelerate the earlier pace of expansion and growth.

On December 5, 1917, the Supreme Economic Council started the process of planning, through the collection of data and the formulation of general plans and estimates. In 1921 the Gosplan (State Planning Commission) was formed and the technique of planning improved. The Gosplan is still in general charge of the system. The article below describes the present method of planning (Jacob Miller, "Soviet Planning Organizations," *The Slavonic Review*, XVI, 1937-38, 586-92.)¹

¹ Reprinted by permission of *The Slavonic Review*, London

A THE MACHINERY OF ECONOMIC PLANNING

The Soviet planning structure has been built up during the past twenty years with no precedents for guidance. The Russians regard it as a by-product of the Revolution, which concentrated the resources of the country and responsibility for their development in the hands of the State, and at the same time as one of the means for continuing the work of the Revolution "in the sphere of economics." Thus the prerequisites and rudiments of planning spread throughout the country, in the early years, with the spread of Soviet rule, just as in later years planning followed Soviet control into the last strongholds of the private entrepreneur, trade and agriculture. By now the network of planning and statistical bodies covers every part of the country and every branch of its economic life.

One part of the system is concerned with the planning of each administrative area of the country as a geographical unit. This may be termed horizontal planning. The other part consists of the planning departments of the economic commissariats, boards and trusts, and plans the country's economic activity by individual industries. This may conveniently be called vertical planning. Both the horizontal and vertical lines of planning lead up to the State Planning Commission [Gosplan] of the U.S.S.R.

HORIZONTAL PLANNING

The national plans for current business activity and future development of the U.S.S.R. by now cover, in outline, all the economic activity of the whole country. Within the framework of the national plans, however, each elected local authority draws up the current and prospective plans for its own area. For this purpose the local Soviets, from town and county (*raiony*) Executive Committees upwards, employ Planning Commissions. These commissions are bodies of experts with a special knowledge of planning, technique, the resources of their area, its industry, agriculture, trade, local transport, finance, housing and amenities, and educational, sanitation and health services. They are paid by and responsible only to their local Soviet. It is the general rule for the head of a Planning Commission to be at the same time a member of the local Soviet and to act as assistant chairman of its Execu-

tive Committee This general principle obtains throughout the hierarchy of Planning Commissions

The function of these Planning Commissions is to act as permanent expert advisory commissions on economic matters generally to the Soviet of the area concerned Preparation of the yearly, quarterly and five-year plans for their area on the instructions of the Soviet Executive Committee is only a part of this work They have to maintain continual observation, using daily and monthly statistical reports, special inquiries and personal contact, on the various branches of economic activity in their area, to warn the Soviet Executive Committee or Government of possible "disproportions" looming ahead, and prepare measures for their prevention These aspects of the Planning Commissions' work are most highly developed in the State Planning Commission of the U S S R.

There are over 3,300 counties (*raiony*) in the U S S R, very few, if any, of which are without a Planning Commission The average number of full-time staff (that is, professional planners) on each is less than two, but there are up to a dozen representatives from the administrative departments of the local authority, other county economic organs, individual village soviets, and local specialists

The Town Planning Commissions, of which there are several hundred, are similarly occupied in the co-ordination of economic activity within the area administered by the Town Soviet, and in drawing up the plans They naturally vary greatly in size and experience The Moscow Town Planning Commission has a staff of over a hundred, and in addition each of Moscow's 23 boroughs has its own small Planning Commission under the Borough Soviet .

The total employed in the Provincial (*Oblast* and *Kray*) Planning Commissions, and those of the Autonomous Republics, on the same date, was 2,881, with, it is worth noting, an average wage of 381 roubles a month These Planning Commissions also vary considerably in size from staffs of less than 20 to over 100, with the variations in economic importance of the provinces and autonomous republics which they serve .

The next stage in the planning pyramid is formed by the State Planning Commissions of the 11 constituent Republics which, federated together, form the U S S R. As the economic advisory

commissions and planning organs of their respective governments, their work is similar to that of the State Planning Commission of the U S S R on the smaller scale of the constituent Republic. They pay more attention than the central Commission to matters within the competence of the constituent Republics, such as local industry (which is of increasing importance, utilising local raw materials for local markets), housing and town planning, public services, education, and other matters for which the U S S R Government has no commissariats or administrative departments . .

VERTICAL PLANNING

Ownership of the Soviet productive apparatus takes two main forms. There is ownership by the State, through its central and local organs of government, and ownership by co-operatives of peasants and of producers and consumers organised into national unions of co-operatives, which are sufficiently under the influence of the State for their activities to form an integral part of the national plans. The kind of economic activity which calls for a high degree of centralisation, such as foreign trade, the heavy armament and machine-building industries, railway transport and the post office, are administered by commissariats of the central government, throughout the territory of the U S S R. For internal trade, finance, agriculture, and the food, light and timber industries, there is a dual administration by all-Union and republican commissariats. Those matters entirely within the competence of the constituent republics, such as education, local industries and municipal economy, are directed by republican commissariats which have no central counterparts. These three types of commissariat are divided into boards (mainly for individual industries) which are subdivided into national or local trusts directly administering the factories, mines, farms, shops, banks and railway lines. The larger enterprises of the central commissariats are directly under the corresponding board or commissariat itself, to avoid unnecessary intermediaries. Within this general pattern of state economic administration there is a great complexity of local and national combines and offices for special purposes such as sales and supplies. To these must be added local undertakings owned and managed by the local state authorities (provinces, towns, counties and even village soviets) in organisations such as the Moscow Tramway Trust, which are all parts of the state economic system. The co-operatives of small-

scale industrial producers and rural consumers, organised in regional and national unions, and owning subsidiary plants for food processing, etc., which employ labour for wages, complete the picture of this complex system of Soviet economic administration.

It is within this complex system that the "vertical" planning structure is found. Every business commissariat and co-operative union has a planning staff of specially trained economists and technicians. Their functions of drawing up and co-ordinating the plans for labour, materials, power, equipment, capital extensions, production, prices and sales, finance, labour productivity and production costs, would appear not essentially different to the corresponding department of a capitalist trust. There are, however, profound differences arising from the fact that the plan under consideration is an organic part of the national economic plan, and is drawn up on general lines of policy universally applied. Thus the principal factor in all these plans is labour productivity, and the necessity for its continual growth is the inspiration behind all Soviet planning. Both as a means to and a result of this, a continual rise in the standard of life is another cardinal policy of all the plans. It is such common lines of policy (expressed in an elaborate system of technical indices which cannot be described here), that make possible the integration of the work of all the innumerable "planning-economic departments" in the commissariats, boards, co-operatives, local and national trusts, combines, and the individual factories, mines and state farms, together with the work of all the territorial planning commission, within the framework of the national five-year, annual and quarterly plans, as set up by the State Planning Commission of the U.S.S.R., and confirmed by the Soviet Government.

B THE GOSPLAN—THE REORGANIZATION DECREE OF FEBRUARY 2, 1938

On February 2, 1938, the State Planning Commission (Gosplan) was reorganized. The reorganization decree, the text of which is given below, shows the extent of the authority of this supreme organ in Russian planning. (Quoted in Jacob Miller, "Soviet Planning Organization," *The Slavonic Review*, XVI, 1937-38, 593-95.)

MOSCOW, KREMLIN, 2 FEBRUARY, 1938

1 The State Planning Commission under the Council of People's Commissaries of the U S S R (Gosplan U S S R) is a permanent Commission of the Council of People's Commissaries of the U S S R

2 The State Planning Commission under the Council of People's Commissaries of the U S S R consists of 11 members, individually approved by the Council of People's Commissaries of the U S S R , from among the leading planning workers, the most prominent scientific workers and specialists

3 The State Planning Commission under the Council of People's Commissaries of the U S S R

a) Works out and submits for the consideration of the Council of People's Commissaries of the U S S R. the national economic long term, yearly and quarterly plans,

b) submits to the Council of People's Commissaries of the U S S R its findings on the long term, yearly and quarterly plans prepared by the commissariats and other departments of the U S S R , and by the constituent republics,

c) verifies fulfilment of the set economic plans of the U S S R ,

d) works out on the instructions of the Council of People's Commissaries of the U S S R and on its own initiative particular problems of socialist economy,

e) appoints expert commissions on particular economic questions,

f) works out, and presents for approval by the Council of People's Commissaries of the U S S R points in the methodology of socialist planning,

g) supervises the work of socialist accounting [statistics] in the U S S R

4 The principal function of the State Planning Commission is that of ensuring in the national economic plan of the U S S R , correct relationships in the development of the various industries [branches of economy], and the measures necessary for obviating disproportions in the national economy

The State Planning Commission is responsible for co-ordinating, in the national economic plan of the U S S R , the work of complementary branches of socialist production the extractive and manufacturing industries, agriculture and industry; transport and the

national economy, co-ordinating increase of production with increase of consumption, providing finance and the necessary materials for production, achieving correct geographical distribution of enterprises for the purpose of abolishing distant and counter freights, that is, near sources of raw material and markets

5 In order to prevent hitches in the fulfilment of the national economic plan, the State Planning Commission

a) verifies fulfilment by the commissariats, departments and enterprises of the state national economic plan,

b) presents for consideration by the Council of People's Commissaries of the U S S R problems and suggestions arising from the verification of fulfilment of the national economic plan

6 In order to carry out the above functions, the State Planning Commission has

a) its central apparatus of departments, sectors and groups,

b) in the republics, territories and provinces—agents of the State Planning Commission for verifying fulfilment of the economic plans

These agents are directly subordinate to Gosplan U S S R, and work independently of the republic, territory and province planning commissions

7 Under the State Planning Commission is the Central Board for Economic Accounting [statistics], whose work is governed by special Regulations confirmed by the Council of People's Commissaries of the U S S R

8 The following is the structure of the central apparatus of the State Planning Commission

Department for integrating the national economic plan, with a group for balance of the national economy,

Department for capital construction, with a group for balance of building materials,

Department for finances (budget and credit),

Department for distribution of enterprises and regional planning,

Sector for natural resources, for fuel, with a group for the fuel balance, for electrification, with a group for the power balance, for metallurgy, with a group for the balance of metals; for the chemical industry, for machine building, with a group for the balance of equipment, for road and air transport and roads, for the timber industry, for the food industry, for light industry, for railway transport, for water transport, for agriculture, for distribution,

for local and co-operative industry, for the production of building materials, for housing and sanitation, for foreign trade, for culture and cadres [education, amusements, sports, and vocational training], for health, for communications

The Sectors of the State Planning Commission are concerned with all points in the planning of the given branch of national economy, and verification of its plan fulfilment by all indices, quantitative and qualitative.

In addition to the above, the State Planning Commission comprises

- A sector for the training of planners,
- A bureau for the ultimate registration of inventions,
- A department for internal administration,
- The journal "Planned Economy" and publications department,
- The Secretariat of the Chairman of Gosplan

.

C INDUSTRIAL PROGRESS UNDER THE FIVE-YEAR PLANS (1928-37)

(Vera M Dean, "Industry and Agriculture in the U.S.S R," *Foreign Policy Report*, XIV, June 1, 1938)¹

That Russia has taken long strides toward industrialization seems indisputable. The discussion given below is convincing on that score. That there have been failures along with general progress and that the Russian people have been obliged to sacrifice and suffer for the cause of industrialization are also well-established facts.

Under the first and second Five-Year Plans the efforts and resources of the Soviet state were concentrated on the development of heavy and defense industries. Soviet leaders declared that, once the country was equipped with adequate facilities for the manufacture of means of production, it would become independent of capitalist states, and could then turn its attention to light industry—the production of consumers' goods. Heavy industry consequently made the greatest relative gains during the period 1928-1937, while light industry lagged behind.

This disparity between heavy and light industry explains the apparent paradox that, while the Soviet Union reports constant

¹ Reprinted by permission of The Foreign Policy Association, New York

industrial progress, the population continues to experience a shortage of such necessities as shoes, clothing, furniture, and manufactured goods. Pressed for time in its race to attain and, if possible, surpass the technical level of capitalist states, the Soviet government purposely postponed fulfillment of the Russians' rapidly increasing desire for a higher standard of living reflected in growing demand for consumers' goods.

During the period 1928-1937, for which official figures are available, total industrial production increased from 9 billion rubles in 1928 to 73 billion in 1937. Starting practically from scratch, Soviet production of locomotives, trucks and freight cars increased three or four times in the past ten years. Output of tractors, two-thirds of which were imported from abroad in 1928, rose from 1,272 units in 1928 to 111,900 in 1936, none having been imported since 1931. No official figures are available regarding production of airplanes, but the success of the Soviet government in developing this industry may be measured to some extent by the performance of Soviet airplanes furnished to the Spanish Loyalists. It has also been reported that the Soviet government is planning to build submarines and warships on the Baltic and the Black Sea. New industries have been established for the manufacture of products previously imported from abroad—notably chemicals, some metals, and various types of machinery.

This steady progress in the development of heavy and defense industries took place during a period of world depression, when the prices of Soviet exports, consisting chiefly of raw materials, experienced a drastic decline on world markets. The Soviet Union is gradually emerging from industrial dependence on foreign states, and may eventually be in a position to supply its own industrial and military needs without resort to imports. While its output of coal, pig iron and electric power is only approaching the levels attained by the United States at the end of the nineteenth century, its production of pig iron and steel already compares favorably with that of present-day Germany. At the same time it should be pointed out—and this consideration is important in estimating Soviet industrial production in time of war—that Soviet industry, unlike that of the United States (but probably like that of Germany), is at present operating at maximum capacity, and would be severely strained by war emergencies.

These quantitative results have been achieved at a sacrifice both

in quality of goods and insufficiently decreased cost of production. The rise in value of heavy industry output has been accompanied by increase in scrap and deterioration of machinery because of shock-brigade methods and lack of timely repairs. This has been particularly true of the steel, coal, crude oil, copper and chemical industries.

Moreover, while the production of industrial raw materials has increased three or four times since 1928, it has frequently failed to keep pace with industrial expansion. Particular difficulties have been experienced with coal production. In April, 1937, after repeated efforts to reorganize the coal industry, the government decreed immediate improvement of wage, cultural and living conditions of miners in the Don Basin, which had experienced a heavy labor turnover. Owing to labor difficulties these mines, which supply 65 per cent of the coal used by Soviet industry, had been 15 to 20 per cent below their production schedule. Shortage of coal had caused the government to order the electric power industry—accused of wasting fuel—to reduce its consumption. The 1938 plan envisaged a smaller output of electric power than that actually produced in 1937. On January 15, 1938, the Economic Soviet ordered reduction in the expenditure of electric power by cutting down on street lighting in Moscow and Leningrad. Measures have also been taken to speed up the copper industry, regarded as the most backward in the country, and the timber industry, whose condition was denounced by the newly appointed Commissar, Ryzhov, as “shameful.”

By contrast, spectacular gains have been made in Soviet gold production, which increased 577 per cent between 1929 and 1936. No official figures are released on output of gold, which is guarded as a secret in the Soviet Union. Well-informed observers believe that gold production in 1937 totaled 5,000,000 fine ounces, or about one-sixth of the world output. Transportation facilities for the gold industry have been improved by the construction of roads and railways, and the installation of a fleet of boats on the River Lena. Exports of gold were resumed in March, 1937.

176 AGRICULTURAL PROBLEMS

The agricultural problems of Russia are very different from those of any other nation. There are several explanations for

this First, there is the fact of collectivization by which the ownership of farms has been vested in the state A second factor is the strenuous effort of the Soviet Government to substitute modern farming devices for the traditional methods of the peasants A third difficulty is the necessity for fitting agriculture into a general system of planned economy

The present organization of agriculture is discussed below by a man who has traveled widely in the Russian farm areas and has studied the system carefully He describes, among other aspects of the subject, typical "state farms" and "collective farms" (E John Russell, "The Farming Problem in Russia," *The Slavonic Review*, XVI, 1937-38, 320-40) ¹

In speaking of Russian agriculture, the same qualifications are necessary as for any other Russian activities First, and most important, while the methods are based on fixed immutable Marxist principles, they are not themselves immutable but are continuously changing, so that the description written today will almost certainly need modification tomorrow

It is not my province to discuss the underlying Marxist principles on which the Russian agriculture is based The three that dominate the agricultural situation are

- (1) there is no private ownership of land or of large implements or of more than a very limited number of animals,
- (2) no one man may hire another man's labour for working on the land allowed to him, or for tending his animals,
- (3) the agricultural production is carefully planned by a central authority which rigidly enforces the carrying out of the plan

Each farm has its programme to which it must conform the farm is simply an organisation for production and has no concern with finding a market or with prices

My Communist friends inform me that the type of farming best according with their fundamental principles is the State farm This is a large farm owned by the State and run on precisely the same lines as a factory The workers should live in large blocks of dwellings similar to those familiar to all visitors to Moscow, they should have their meals together in a common dining room, and take their rest and culture together like any other workmen

¹ Reprinted by permission of *The Slavonic Review*, London

In accordance with this idea, a number of State farms were established after the Revolution. Their history is very interesting. It was not at first possible to "socialise" the farms, as the peasants did not understand the idea and preferred to have the land themselves in point of fact this led to an increase in the number and a decrease in the size of the holding. . So from 1921 onwards the New Economic Policy was for a few years in force, which really left the peasants in control of their holdings and gave them considerable freedom of action in cropping and marketing. But the strict Communists never liked this compromise with principles, and by December, 1927, when the 15th Congress of the Communist party was held, considerable changes had taken place. A planned national production was begun in 1925-26 at first on an annual basis and chiefly for the industrial activities, but later on a five-year basis and embracing the whole of the national production, including agriculture, when this plan was formally put into operation in 1928 the "socialisation" of agriculture began in earnest. The grain problem was acute the peasants were not producing as much as was hoped, and it was decided to set up, under the Grain Trust, huge grain farms as State enterprises "grain factories" they were often called.

The State Farm, No. 1 of the Ararat Trust, situated not far from Envan, is devoted mainly to grapes for making into wine, with some fruit, chiefly apricots but also peaches, apples and plums. Its present area is 280 hectares, but it is to be extended to 2,000 ha as irrigation water becomes available. Sixty-two varieties of grapes are grown of which 47 are local, the rest imported from the Black Sea region, they are sent direct to the factory to be worked up there, for no wine is made on the farm. There are 150 permanent workers and 350 seasonal workers for the spring and autumn. All are paid by piece work, the units of work being called a "labour day", 12 to 15 roubles are paid for each "labour day" and workers commonly earn 300 or 400 labour days a year. Forty-four of them, including 12 women, are Stakhanovites, and these may earn as much as 600 to 800 roubles a month. The workers are organised into 11 brigades, each responsible for its own area of vineyard and having its own tools. For every 3 brigades there is an adviser who is paid 400 to 500 roubles a month. The Director was a worker here, then studied and became adviser, his pay is 900 roubles a month.

The total revenue for 1936 had been 18 million roubles, and after payment of charges including wages there was a balance of 50,000 roubles, 20 per cent of which goes to social services and 80 per cent to the Trust.

However important the State farms may be in principle, they are now of little significance in fact. The peasants apparently do not like them only on this view can one explain their failure to develop when they accord so well with the principles of Communism. Another method called collectivisation has proved much more feasible and that is the one that has developed, the "collectivisation" of the small peasant holdings, and their grouping into larger ones. The peasants saw great machines on the State farms ploughing and reaping far more rapidly than they themselves could do, and they were promised that if their holdings were thrown into a sufficiently large block the tractor could be used there too. I cannot speak from personal experience as to how far this inducement operated, but it is stated to have been an important factor of peaceful penetration. The inception of this method is attributed by Wolf to Markevich, then manager of one of the Ukrainian State farms, "Shevchenko," who had tried the experiment of lending tractors, implements and drivers to a neighbouring village on condition that all landmarks were to be removed and all the land thrown into one large piece—collectivised, as it was called. The peasants were to provide unskilled labour and to hand over to the State farm 25 per cent of the winter corn and 33 $\frac{1}{3}$ per cent of the spring corn to pay the cost. The arrangement proved satisfactory, and so it was decided to set up Motor Tractor Stations (now called MTS) each of which has some 200 or 250 tractors with repairing workshop, staff of mechanics and drivers: each was at first intended to serve some 50,000 ha. of cultivated land.

With the development of the MTS it became possible to push forward with schemes of collectivisation, and after the objectors were liquidated the remaining peasants learned to work the system, these new farms are called Kolhoz, while the State Farms are called Sovhoz. Ninety-eight per cent of the cultivated land is said to be "collectivised".

The establishment of a collective farm is thus defined "Working peasants of a village, farm, etc., forming of their free will an agricultural association to build up by their collective work a collective farm." All land, livestock, implements, seeds, food for

livestock and farm buildings and other possessions of the peasants must be made communal. Each member, however, may have a small area of land, from $\frac{1}{4}$ to $\frac{1}{2}$ ha, in some regions more, on which he may grow whatever crops he wishes. In addition he may have certain livestock, the numbers of which are set out in detail as follows: "In grain-growing, cotton, beet-root, flax, hemp, potatoes, vegetables, tea and tobacco regions, each member of a collective farm can have in his private use, 1 cow, 2 calves, 1 pig with suckling pigs, and if the administration finds it necessary, then 2 pigs with sucklings, 10 sheep and goats, an unlimited number of hens, rabbits and 20 hives. In regions of grain-growing farms and development of animal breeding, each household can have 2-3 cows and calves, 20-25 sheep, unlimited amounts of hens, rabbits and 20 hives. In regions of non-nomads and semi-nomads, where animal husbandry is a predominant part of agriculture, each farmhouse can have in private use 4-5 cows and calves, 30-40 sheep and goats, 2-3 pigs and piglings, an unlimited number of hens and rabbits and 20 hives, also 1 horse, or 2 camels or 2 donkeys."

Space does not permit the description of more than two of the collective farms. I choose as my first example the Karl Liebknecht Farm near Odessa. At its entrance stands a big placard setting out the regulations, alongside of it are photographs of the farm Stakhanovites. Near by also is a map of Spain with thick black lines showing the present boundary between the contending forces, for Spain has now become of very great interest to the Russians. Our attitude in the Spanish War was not at all understood, and I was frequently asked why England was helping General Franco.

Near by also was the lecture place, this time in the open air, where a number of planks were arranged so as to make seats for the audience, while in front was a blackboard with a table for the use of a lecturer. Later on in the day the workers were assembled here to listen to a lecture by a Party man on foreign affairs, especially Spain.

The population of the farm is 800 and the number of workers 460.

The area of the farm is 1,180 hectares, of which 600 are in grain crops, 120 in potatoes, about the same in fallow, 60 each in vines and melons, 80 in nursery crops, similar areas in tomatoes and other vegetables. About half the grain is sown in winter, this is chiefly wheat. There are 100 head of cattle, of which 38 are in

milk, and the average yield is given as 600 gallons per annum, I had, however, no means of checking this figure. There are 520 pigs, a high number typical of modern agriculture in Russia, because the pig is the most economical producer of meat of all the farm animals and on the whole the easiest to raise. The outgoings are as follows:

Government tax on total sales	3 per cent
Set aside for capital improvements	15 per cent
Cultural and every day life, including prizes for the best workers	5 per cent
Sick and invalids	2 per cent
Running expenses	8 per cent
Administration	2 per cent

The following quantities must be sold to the Government at stated prices:

Meat	3,200 kilograms of meat, chiefly pork, at 1 ruble 50 kopecks per kilo
Milk	140 litres per cow at 1 ruble 28 kopecks per litre, delivered free to the Government factory up to a distance of 15 kilometres
Crops	1 dz per hectare of wheat and other grain at 9 rubles per dz, and 3 dz per hectare of potatoes at 12 kopecks per kilo

The remaining produce is divided among the workers according to the number of their labour days. The labour day is as follows:

Wheat	2½ kilos
Potatoes	½ kilo
Vegetables	3 kilos
Grapes	½ kilo
Wine	½ litre.
Hay or silage	5 kilos
Cash	10 rubles

A common number of labour days per annum is 250, but some Stakhanovites got as many as 750 or 800. A family may obtain 1,000 labour days in a year, and one was getting as many as 1,400.

Taking a wide view, the problem is still far from solution. The trend of events in Russia is towards the building up of an urban, rather than of a rural, civilisation. It is the factories, the cities, the city parks of rest and culture, the large theatres, the cinemas, the Metro, that the Russians show with the greatest pride to their visitors and which are most frequently described by writers. But these things touch only a small part of the population, not more than some 20 per cent. The remaining 80 per cent is resident in the villages away from all of these things and hardly influenced by

them, scarcely as yet receiving their products. It is difficult to find anything in common between the peasant and the educated Russian of the town and during the period in which I have visited Russia I have seen no signs of any approach.

177. POPULATION AND HOUSING

The Soviet Union has had serious housing problems which its extensive planning machinery has been trying to solve. To a large extent these problems have been incidental to socialization. The selection below discusses some of the measures that have been adopted. It also brings out important considerations involved in the actual operation of Russian governmental machinery. (Isadore Rosenfield, Alan Mather, and Morris Zeitlin, "Housing and Town Planning in the Soviet Union," *Research Bulletin on the Soviet Union*, Vol. II, No. 5, 1937.)¹

If the problem of housing of workers has been complex for industrially advanced countries, it has been doubly so for the Soviet Union which inherited no more than an embryonic industry from the Russia of the Tsars. It is only recently that the Soviet Union has attained a first-class industry—the prime requisite for an urban housing program. The housing heritage which the Soviets received was mainly one of log or mud cabins in the countryside and a congregate of barracks and slums in the cities. Only the central portions of the big cities had utilities such as piped water supply, sewerage, gas, electricity and paved streets. These meager utilities and most of the houses fell into a state of complete disrepair through the years of war, counter-revolution and invasion.

In the Soviet Union the single problem of housing has never been abstracted from the general problem of raising the level of the material welfare of the population—that is, from the general problems of "building socialism."

The following table gives an indication of the tremendous movements of population incidental to the socialist industrialization of the country.

¹ Reprinted by permission of the American Russian Institute for Cultural Relations with the Soviet Union, Inc., New York.

POPULATION OF RUSSIA AND THE USSR
(in millions)

Date	Total	Urban	Rural	Urban Population in Per Cent of Total
Jan 1, 1914 *	139 7	25 8	113 9	18 5
Jan 1, 1917 *	141 7	29 0	112 7	20 4
Mar 15, 1923	133 5	21 6	111 9	15 4
Apr 1, 1928	151 3	27 9	123 4	18 4
Jan 1, 1933	165 7	39 7	126 0	24 0
Dec, 1937 †	180 7	46 1	134 6	25 5

* Including Russian Poland, the Baltic States, and other territories formerly in the Russian Empire

† Estimate—from the second Five-Year Plan

The growth of individual towns has been phenomenal. Moscow and Leningrad have trebled their 1920 populations, Stalingrad, Sverdlovsk, Gorky (Nizhni-Novgorod) and Cheliabinsk have quadrupled theirs. On January 1, 1933, there were sixty-five cities with a population of over 100,000 as against thirty-one at the end of 1926 and only sixteen in 1914.

To be thoroughly understood, the character of Soviet housing and town planning should be projected against this background of socialist construction.

In preparing the estimates for the housing construction which is required during any year, the trusts, combines, large individual plants, district housing co-operatives and municipalities are guided by the general economic directives issued by the Soviet government through the State Planning Commission. After considering the general principles upon which the year's economy will be based, they submit their estimates to individual departments of the State Planning Commission which in turn correlate the information and make general estimates of housing requirements for the whole country. These are submitted to the Department of Synthetic Planning of the State Planning Commission. On the basis of the figures submitted to them by the latter agency, the Council of People's Commissars and the Council of Labor and Defense determine the size of the budget appropriation to be devoted to the development of the various branches of Soviet economy, including housing. They make allocations, or set limits, which are passed back until eventually they reach the trusts, combines, individual plants, district housing co-operatives and municipalities. The detailed

plans of construction are prepared by these local organizations within the limits set by the Council of People's Commissars and are passed up again to the higher organs until they reach the State Planning Commission which co-ordinates them and submits the general plan thus achieved to the Council of People's Commissars for final approval. When approved, the plans finally pass downward again to the individual and basic organizations which then proceed to put them into execution.

During the first Five-Year Plan period the urban population of the U.S.S.R. increased from 27.9 millions in 1928 to 38.2 millions in 1932. This tremendous increase due to the rapid pace of industrialization was paralleled by an acute housing shortage.

The total floor space in housing to be provided within the Five-Year Plan period was set at sixty-two million square metres, a figure that included allowances for demolition and reconstruction. The public authorities (state industry, transport authorities, municipalities and co-operative societies) were to supply funds for forty-two million square metres of the new building and twenty million square metres were to be paid for by private persons.

The program fell far short of realization, and although the expenditure on new dwellings during the four years of the plan amounted to more than four billion rubles, the area of housing space increased by only thirty million square metres of which twenty-six million square metres were provided by public authorities. Despite inducements offered to individuals or private groups, the four million square metres of space built by these was far less than what had been anticipated.

Sixty-four million square metres of dwelling space was the goal set for the construction during the second Five-Year Plan period. Expenditure was set at 13.4 billion rubles, and an increase from 4.8 square metres per capita in 1932 to 5.4 square metres in 1937 was projected, after allowance had been made for an increase in urban population. The agencies engaged in construction have been unable, however, to live up to this program.

Soviet housing has varied so much according to locality and period that it defies generalization. Two-story cottages in pairs arranged as in the English garden city, single family houses built for Stakhanovites with their superior wages; three- and four-story apartment houses on the German Zeilenbau plan, apartment blocks with large central courts; eleven-story elevator apartment

houses (in Moscow)—all these have been built, each with variation in material and decoration, depending upon locality. .

The question of kitchens in the houses remains unsettled. In 1931, Kaganovich admitted a fact which is still true

"Today when we have not yet built restaurants and cafes that entirely satisfy the requirements of the worker, the working woman and the working class family, it is impossible to resort to the wholesale abolition of the individual kitchen "

An editor in *Pravda* on February 3, 1936, condemned foolish leftist theories about the home being only a place to sleep in and called for larger kitchens, places for the storage of food, rooms for house workers and provisions for the washing and drying of clothes

In the order of April 23, 1934, mentioned above, the provision of laundries, refrigerators, storage space for wood fuel, nurseries, kindergartens was required in conjunction with the houses themselves. But judging by the decree concerning the general plan for the reconstruction of Moscow which was published in 1935, there appears to be a movement toward the consolidation of some of these services

"The Central Committee of the Communist Party and the Council of People's Commissars consider it wrong to build . . . institutions isolated in each of the big houses for the tenants of these houses only. They believe that schools, clinics, dining rooms, kindergartens, crèches, theatres, movie houses, clubs, hospitals, sport grounds and other institutions for cultural amenities, catering to the population, must be located in the very center of a number of blocks, each designed to serve the population living not in one, but in scores of houses "

It is too early to judge the effects of this principle. Hitherto Soviet architects have been planning entire residential blocks the size of which is based on the number of people which nurseries, kindergartens, dining rooms and cafeterias within each block can conveniently and economically serve.

178 THE BUDGET OF THE U S S R (1937)

A study of the budgets of capitalist governments is ordinarily illuminating only because it shows sources of revenue, the nature of the activities financed, and the relation of expendi-

ture to revenue in creating a deficit or establishing a balance. While the Russian budget is also interesting for these reasons, its greatest usefulness is that it is a vantage point from which the entire economic life of the country may be glimpsed. The Soviet Government controls all sources of capital, hence it must provide for the financing of the economic life of the country, as well as for the maintenance of the government and its social services. The funds appropriated for industrial development are administered by the state banks which allocate them among the branches of the state economy in accordance with the provisions of the economic plan. It is estimated that 95 per cent of the national income of Russia passes through the unified state budget, which includes both national and local budgets.

The accompanying budget is that for 1937. (Quoted from Vera M. Dean "Industry and Agriculture in the U.S.S.R." Foreign Policy Report, Vol. XIV, June 1, 1938.)

STATE BUDGET OF THE U.S.S.R. FOR 1937*

REVENUES		REVENUES	
	(in thousands of rubles)		(in thousands of rubles)
1 Turnover tax	76,793,400	Commissariat of Food Industry	1,800,100
Including Peoples Commissariat of Heavy Industry	8,860,000	e Enterprises of Peoples Commissariat of Local Industry	542,905
Peoples Commissariat of Light Industry	11,382,000	f Enterprises of Peoples Commissariat of Agriculture	40,480
Peoples Commissariat of the Food Industry (exclusive of Central Alcohol Administration)	20,387,000	g Enterprises of Peoples Commissariat of State Farms	30,700
Central Alcohol Administration	6,190,000	h Railway transport	687,700
Agricultural Produce Purchasing Committee under the Council of Peoples Commissars of the U.S.S.R.	24,106,000	i Enterprises of the Peoples Commissariat of Home Trade	174,950
State Trade Organizations	2,605,000	j Agricultural Produce Purchasing Committee under the Council of Peoples Commissars of the U.S.S.R.	58,750
Co-operative Organizations	1,682,000	k Enterprises of the Peoples Commissariat of Foreign Trade	37,510
2 Profit tax		l State credit institutions	245,000
a Enterprises of the Peoples Commissariat of Heavy Industry	1,331,030	m State insurance organs	319,000
b Enterprises of Peoples Commissariat of Light Industry	829,100	n Other tax paying organizations	169,950
c Enterprises of Peoples Commissariat of Timber Industry	37,000		
d Enterprises of Peoples		TOTAL revenues from profits	6,304,175

* Moscow Daily News, January 14, 1937

STATE BUDGET OF THE USSR FOR 1937 (cont'd)

REVENUES		REVENUES	
	(in thousands of rubles)		(in thousands of rubles)
3 Income tax and other taxes from enterprises and organizations		14 Central Administration of the Northern Sea Route	579,900
a Tax on no commodity operations (income from services)	390,370	15 Central Administration of Highways of the Peoples Commissariat of Home Affairs	830,900
b Income tax from collective farms	530,000	16 Central Administration of the Civil Air Fleet	301,180
c Tax from State Farms	45,895	17 Peoples Commissariat of Communications	545,990
d Miscellaneous	6,640	18 Volga construction job	200,100
TOTAL taxes from enterprises and organizations	972,905	19 Moscow Canal construction	242,820
4 Returns from State social insurance for social and cultural measures	3,700,000	TOTAL expenditures on transport and communications	8,533,040
5 State loans		20 State trading, supply and purchasing organizations	3,035,780
a Loan subscriptions	4,375,000	21 Peoples Commissariat of Foreign Trade	19,720
b Savings banks	1,200,000	22 Reserves Committee	1,687,600
c State insurance	400,000	23 Moscow Subway	458,350
TOTAL on state loans	5,975,000	24 Central Administration of the Hydro-Meteorological Service under the Council of Peoples Commissars of the USSR	128,640
6 TOTAL individual taxes and assessments	2,645,000	25 Other expenditures on national economy	3,875,504
7 TOTAL of other revenues	1,677,020	TOTAL expenditures on national economy	39,585,607
GRAND TOTAL	98,069,500	B Social and Cultural Measures	26,604,552
EXPENDITURES		a Under the State Budget directly	10,870,116
A National economy		b Under local budgets	15,734,436
1 Industries of the Peoples Commissariat of Heavy Industry	6,217,420	Including	
2 Industries of the Peoples Commissariat of Defense Industry	2,328,790	1 Education	18,269,806
3 Industries of the Peoples Commissariat of Light Industry	1,603,700	2 Public Health	7,528,146
4 Industries of the Peoples Commissariat of the Timber Industry	1,274,660	3 Physical culture	96,732
5 Industries of the Peoples Commissariat of the Food Industry	1,042,450	4 Social security and labor protection	709,848
6 Industries of the Peoples Commissariat of Local Industry	375,633	C Peoples Commissariat of Defense of USSR	20,102,240
7 Cinema Industry	103,330	D Peoples Commissariat of Home Affairs	2,699,390
8 Various industrial construction jobs	391,530	E Peoples Commissariat of Justice and the State Prosecutor's Office	149,300
TOTAL expenditures on industry	12,397,513	F Administration expenditures	1,618,622
9 Agriculture under the Peoples Commissariat of State Farms	2,064,280	G Service on State Loans	2,579,000
10 Agriculture under the Peoples Commissariat of Agriculture	6,994,870	H Accounts with long term credit banks	1,382,100
TOTAL expenditures on agriculture	9,059,150	I Reserve funds of the Council of Peoples Commissars of the USSR and the Council of Peoples Commissars of the Union republics	1,855,000
11 Central Administration of Peoples' Education and Artistic Education and		J. Other expenditures, including under local budgets	543,689
TOTAL expenditures on education and art			199,062

179 THE PURGES

The death of Lenin in 1924 left the way open for new dissensions within the ranks of Russian leadership. Soon after Stalin, the secretary general of the Communist party, succeeded Lenin he encountered opposition from Trotsky, Zinoviev, and Kamenev—men who felt that the new dictator was departing from the principles of the Revolution. They were expelled from the powerful *Politburo*, the highest party organ. A few years later three other members of the *Politburo* were expelled on the ground that they were too conservative. With the exception of Trotsky, who went into exile, these men were allowed to remain in the country and were not executed until recently.

Probably thousands of less prominent men have been executed as enemies of the Stalin system of government. Men from nearly every walk of life have been arrested, tried, and sent before the firing squad. The trials, with attendant confessions, charges, and denunciations, have not impressed foreign observers as regular judicial proceedings, at least when judged by foreign standards.

Extract A below is a summary of the later fortunes of contemporaries of Stalin prominent in 1924. The list indicates the extent of the purges. Under B is a discussion of the subject from a more general point of view, with some suggestions as to Stalin's motives.

A THE FATE OF PARTY LEADERS (1924-38)

(Paul Scheffer, "From Lenin to Stalin," *Foreign Affairs*, XVI, April, 1938, 446-48) ¹

I POLITBURO

As of June 6, 1924

TROTSKY—Commissar of Army and Navy, Alternate Member of Executive Committee of Comintern. Expelled from *Politburo*,

¹ Reprinted by permission of *Foreign Affairs*, New York

- 1926 Deported to Turkistan, January, 1928, exiled January, 1929
- KAMENEV—Deputy Chairman of Sovnarkom, Member of Executive Committee of Comintern Expelled from Politburo, 1926. Executed August, 1936
- ZINOVIEV—Chairman of Executive Committee of Comintern, Chairman of Petrograd Soviet Expelled from Politburo, 1926 Executed August, 1936
- BUKHARIN—Editor of Pravda, Member of Executive Committee of Comintern Expelled from Politburo, 1929 Executed March 1938
- RYKOV—Chairman of Sovnarkom, Chairman of Supreme Economic Council Expelled from Politburo, 1930 Executed March, 1938
- TOMSKY—Chairman of Union Council of Trades Unions. Expelled from Politburo, 1930 Suicide when ordered arrested, August, 1936
- STALIN—Secretary General of Party, Member of Executive Committee of Comintern In office

II "SOVNARKOM"

At the time of Lenin's death, January 21, 1924

- BRIUKHANOV—Commissar of Food (to 1924), Commissar of Finance (1926-1931) Oblivion.
- CHICHERIN—Commissar of Foreign Affairs (to 1930). Disgraced July, 1930. Died July, 1936
- DZERZHEVSKY—Commissar of Railways, Head of the GPU, Alternate Member of Politburo Died July, 1926
- KRASSIN—Commissar of Foreign Trade (to 1924), Ambassador in Paris and London (1924-1926) Died November, 1926
- KUIBYSHEV—Commissar of Works (to 1926), Chairman of Supreme Economic Council, 1926-1933, member of Politburo, 1927-1935, Chairman of State Planning Commission, 1931-1935 Died (cause uncertain) January, 1935
- LUNACHARSKY—People's Commissar of Education (to 1929) Died December, 1933.
- SCHMIDT—Commissar of Labor (to 1927), Deputy Chairman of Sovnarkom (to 1930) Oblivion

- SMIRNOV—Commissar of Posts and Telegraphs (to 1927), Member of Executive Committee of Comintern (to 1927) Deported to Siberia, 1928 Executed August, 1936
- SOKOLNIKOV—Commissar of Finance (to 1926), Alternate Member of Politburo (to 1926), (Ambassador in London, 1929-1933, Assistant Commissar of Lumber Industry, 1935-1936) Arrested, 1936 Condemned to prison, January, 1937
(also KAMENEV, RYKOV, and TROTSKY, listed in Table I as members of the Politburo)

III. OTHERS AROUND LENIN

- ENUKIDZE—Secretary of Central Executive Committee of U.S.S.R. (to 1935) First disgraced, 1935 Executed December, 1937
- FRUNZE—Assistant Commissar of Army and Navy (to 1925), Member of Executive Committee of Comintern, Alternate Member of Politburo (Commissar of Army and Navy, 1925) Died, 1925
- GAMARNIK—Chairman of Far Eastern Revolutionary Committee (to 1929), (Assistant Commissar of Defense, 1930, promoted to civil rank equal to Marshal, 1935) Committed suicide, May 31, 1937, on eve of arrest
- KALININ—President of the Central Executive Committee of the U.S.S.R. (Member of the Politburo, 1926 to date). In office.
- KARAKHAN—Ambassador to China (to 1927), (Assistant Commissar of Foreign Affairs, 1927-1934, Ambassador to Turkey, 1934-1937) Executed December, 1937
- LITVINOV—Assistant Commissar of Foreign Affairs (to 1930), (Commissar of Foreign Affairs, 1930 to date) [Removed from office, 1939]
- MENZHINSKY—Deputy Chief of GPU (to 1926), (Chief of GPU, 1926-1934) Died May, 1934
- OSSINSKY—Assistant Commissar of Agriculture (to 1924), (Director Central Statistical Administration 1926-1928 and 1931-1935). In prison March, 1938
- PIATAKOV—Deputy Chairman of Supreme Economic Council, (Vice-President of State Bank, 1928-1929, President of State Bank, 1929-1935, Assistant Commissar of Heavy Industry, 1933-1936) Executed February, 1937.

- RADEK**—Secretary of the Executive Committee of the Comintern, An editor of *Izvestia* Deported to Siberia, 1928 Sentenced to prison, February, 1937
- RAKOVSKY**—Former Chairman of the Ukrainian Sovnarkom, Assistant Commissar for Foreign Affairs (1923-1927), Ambassador in London (1923-1925), (Ambassador in Paris, 1925-1927) Deported to Siberia, 1929 Sentenced to prison, March, 1938
- SEREBRIAKOV**—Assistant Commissar of Railways First disgraced, 1927 Executed February, 1937
- TUKHACHEVSKY**—Commander of Red Academy of General Staff, (Promoted to Marshal, 1935) Executed June, 1937
- UBOREVICH**—Commander-in-Chief of Far Eastern troops, (Commander of Moscow Military District, 1928-1930, Assistant Commissar of Defense, 1930, Member of Revolutionary Military Council, 1932-1937) Executed June, 1937
- VOROSHILOV**—Commander of Caucasus Military District (Commissar of Defense and Chairman of Revolutionary Military Council, 1925 to date, member of Politburo, 1926 to date) In office
- YAGODA**—Member of Presidium of GPU, (Commissar of Interior [the reorganized GPU], 1934-1936) First disgraced, 1936. Executed March, 1938

B A DISCUSSION OF THE PURGES ¹

PARIS, Sept 12 [1937]—Dramatic and bewildering is the twelve-month in the history of the Soviet Union that has just drawn to a close. It has been a year of considerable positive accomplishment, despite recessions in many key industries and disorganization of much of the Soviet economic and political machinery. But most of all it has been a bloody year, the bloodiest since the early years of the Bolshevik revolution.

It has been a year of startling contrasts. Early on the morning of August 24, 1936, sixteen men, including the world-famous old Bolshevik leaders Gregory Zinoviev and Leo Kamenev, were convicted of plotting to assassinate the present Soviet leaders, from Joseph Stalin down, to seize power, and betray the country to capitalism. They were led stumbling out forthwith to be shot.

¹ Reprinted by permission of *The New York Times* of September 13, 14, 15, 16, 17, and 19, 1937.

Untold thousands more have been arrested in every part of the Soviet Union, one deduces from reading between the lines of the Soviet press, for arrests are rarely announced in so many words. Innumerable others have been dismissed from their jobs under circumstances that will militate against their getting desirable jobs again. And those expelled from the Communist party in recent months are legion.

Thus now is an appropriate time to review the situation and weigh the possible reasons for this drastic and continuing purge. These possible reasons are beginning to emerge from obscurity. They are still regrettably vague and incapable of concrete proof in a land where the simplest affair is often veiled in semi-Oriental mystery, where in treason cases all but the "show trials" are held behind closed doors and their evidence not revealed, and where foreigners are now objects of suspicion, cut off to a large degree from personal contacts and compelled to live their lives in Moscow beyond an invisible pale.

The dead of this past twelve months—those names actually announced in the limited number of provincial newspapers reaching our Moscow desks—number many hundreds and the toll is increasing almost daily. The hunt for "spies, wreckers, and diversionists" is now dredging into the humbler strata of the population.

The Soviet purge is affecting almost every conceivable field of life. Those that have already felt it include

- 1) Old Bolsheviks, men who helped to make the revolution but fell out with Stalin on doctrinal issues or came to be regarded as politically untrustworthy, so that they were either accused of counter-revolution or shelved.

- 2) The Red Army, eight of whose greatest generals, headed by Marshal Mikhail N. Tukhachevsky, were executed last June on the amazing charges of selling military secrets to Germany.

- 3) The People's Commissariat of Internal Affairs (NKVD), which has taken the place and functions of the old OGPU. Its higher ranks, from Henry G. Yagoda, the commissar, down, have been combed, and since the downfall of the sinister figure of Yagoda last fall hundreds of its higher officials are reliably reported to have followed him to prison—a feature of the purge that apparently is popular with Moscow's general public.

- 4) The Commissariat of Foreign Affairs, a number of whose

highest officials, including Nikolai Krestinsky and Leo M. Karakhan, assistant commissars, and three members of the Press Bureau, which includes the censorship, disappeared under circumstances suggesting their arrest

5) The governing organs and Communist party leadership of constituent republics, notably White Russia, Georgia, and the Ukraine, where there have been mass arrests and dismissals, together with suicides and executions.

6) The Communist party, from members close to the seats of power in Moscow to local officials in remote provinces

7) The Young Communist League—charged with the vitally important task of educating Soviet youth in loyalty to the Stalin regime—many of whose leaders have been removed, some under the ominous accusation of being “enemies of the people”

8) Osoaviakhim, organization containing millions of members devoted to training army reserves, whose former chief, General Robert P. Eideman, was one of the generals executed with Marshal Tukhachevsky

9) Local agricultural administrations, from regional officials to chairmen of collective farms and agronomists, a number of whom have been shot recently for alleged anti-State activities

10) Industries of all sorts, resulting in a general shifting of commissariats as well as numerous dismissals

11) Railway transport, which alone has provided hundreds of firing squads with victims, especially in the Far East.

12) The State Planning Commission, which is the brain of this vast State-controlled economic organism.

13) Foreigners There has been a general, though by no means complete, “liquidation” of foreigners in Russia. It started with citizens and former citizens of potentially hostile countries, such as Germany, Japan, and Poland, and has spread to citizens of other countries with which the Soviet Union has no quarrel.

Most foreigners who had retained their foreign citizenship were simply asked to leave the country. Many foreign radicals, however, who had entered Russia and taken Soviet citizenship were arrested.

PARIS, Sept. 13.—Now what is the explanation for the Soviet's unceasing purge of allegedly disloyal elements and its dragnet hunt for spies? The precise reasons are hidden behind the inscrutable Kremlin walls and the grim gray-green Lubyanka prison—head-

quarters of the political police, with its execution chambers beneath—and they may never be known.

But foreign diplomats in Moscow are piecing together scraps of evidence, studying indications and probabilities and making shrewd guesses. Some of these diplomatic interpretations are founded on reasons shaped by three diverse factors.

First, there is the international situation, in which the Soviet Union conceives itself and the world to be threatened by aggressive Powers, notably the Fascist States of Germany, Italy, and Japan.

Second, there is the internal economic situation, disturbed by the lagging of many industries, that is caused by bureaucratic inefficiency and abdication of executives who fear to take responsibility, by a breakdown of labor discipline and by some sabotage, though few foreigners in Moscow believe there is anywhere as much deliberate wrecking as the Soviet press, shrieking at delinquents, alleges.

Third, there is the internal political problem presented by the fact (if one credits the Soviet press's daily denunciation of enemies within the gates) that there is a great deal of opposition to the Stalin regime—more, it would seem, than Joseph Stalin supposed last winter when he gave the country a new Constitution, with provision for the secret ballot.

As to the Soviet Union's fear of spies, it is undoubtedly justified. Germany has repeatedly declared her hunger for the Soviet Ukraine and Chancellor Adolf Hitler has never withdrawn the statement in his book *Mein Kampf* that the place for German expansion is to the east. Poland could do with a slice of Soviet territory herself if she could get it easily and safely, and, though the Soviet's relations with Finland are now harmonious, there is an articulate group in Finland that talks of "a greater Finland," which would include Soviet Karelia and perhaps stretch even to the Urals. And in the Far East the Soviet and Japan scowl across the Amur River and occasionally take potshots.

180 SABOTAGE AND THE CRIMINAL LAW

The fact of socialization in Russia gives the criminal law an importance out of proportion to its position in other countries. The state must use the criminal law not only to maintain normal peace and safety, but also to protect the economic

instrumentalities of the state against violence or other subversive activities. The following excerpt is a description of the Russian criminal law, with illustrations of the nature of sabotage and crimes against the nation's economy (Harnet Moore, "Criminal Law in the U.S.S.R.," *Research Bulletin on the Soviet Union*, Vol. I, December 30, 1936) ¹

The criminal code of the Soviet Union differs in some respects from those in other countries because of the socialist nature of its economic structure. On this account many acts are considered "economic crimes" against the state, which would not fall in the category of serious offenses in capitalist countries.

Each of the seven (now eleven) constituent republics has its own criminal code, but they are all very similar since the constitution of the U.S.S.R. gives the central government authority to legislate on the judicial procedure, the criminal and the civil codes of the whole country. Likewise the laws of the U.S.S.R. are binding on the whole country, and laws passed by the government of the U.S.S.R., making some act a crime and prescribing the punishment for it, have to be enforced by the courts in the constituent republics.

The criminal code of the Russian Socialist Federated Soviet Republic can serve as an example of the criminal law as applied in the U.S.S.R. The code is divided into two sections: the general section lays down the principles regarding the aims, scope, and methods of penal legislation, and the special section defines specific crimes. These are grouped under ten headings, including, among others: crimes against the state, or treason, minor crimes related to administration, economic crimes, including such things as maladministration of state enterprises, continual delivery of goods of poor quality, etc., crimes against persons, crimes against personal property, military crimes, and crimes constituting a survival of the tribal manner of life.

There is no especial interest in enumerating ordinary criminal offenses against individuals, as their definitions parallel those in other countries. What is of interest to foreigners is the crime of "counter-revolution" or treason against the Soviet state. Article 58 (1) reads:

¹ Reprinted by permission of the American Russian Institute for Cultural Relations with the Soviet Union, Inc., New York.

"Any action is considered counter-revolutionary which is directed toward the overthrow, undermining or weakening of the authority of the Workers' and Peasants' Soviets, or of the Workers' and Peasants' Government (whether of the U.S.S.R. or of a constituent or autonomous republic), or towards the undermining or weakening of the external security of the U.S.S.R. or of the fundamental economic, political, and national conquests of the proletarian revolution."

The actions which fall within this category are carefully listed in this article. They include the following¹: * armed rising or invasion with the intention of overthrowing the regime, * aiding any foreign group or government in war, intervention or blockade against the U.S.S.R., * inducing any foreign group or state to invade or blockade or engage in other hostile action against the Soviet Union, * espionage against the U.S.S.R., including transmission to hostile groups of secret economic information, * wrecking, * sabotage, * terrorism against Soviet officials, propaganda or agitation encouraging the overthrow of the Soviet regime, * any organized activity toward the commission of any of the above-mentioned crimes, failure to report knowledge of the above activities. In addition to these counter-revolutionary crimes there are serious crimes against the administration which likewise may entail heavy penalties. These are * mass disorders leading to pogroms or serious destruction of property, * organized banditry, * stealing military firearms, * disorganization of transport, evasion of military service on false pretexts, * evasion of taxes in wartime, * agitation to arouse racial or religious enmity, * counterfeiting, * smuggling; infringement of regulations relating to foreign trade and currency, and failure to report any of the above-mentioned crimes.

All the crimes punishable by death are listed here, with three exceptions, namely military treason, pilferage of collective farm produce and goods in transit, and armed robbery resulting in murder. However, not all of these offenses listed above are subject to the death penalty and in no case is it obligatory.

In regard to the death penalty the code states

(Art. 21) "In order to assist in the struggle against the more serious forms of crime such as threaten the foundations of

¹ Those which are starred may be punishable by death.

the Soviet state and the Soviet regime, there shall be applied, in cases specially indicated in the articles of the present code and pending its abolition by the Central Executive Committee of the U S S R, the penalty of death by shooting as an exceptional measure of defense of the toilers' state"

In short, it is regarded as a weapon of defense . . .

In 1924, Savinkov, leader of the terrorist Social Revolutionaries, was arrested and charged with numerous attempts to overthrow the Soviet regime, starting with Fannie Kaplan's shot at Lenin, including armed uprisings of peasants, work for the interventionists, and work abroad with White Guard organizations

In 1928, of the 52 on trial for wrecking in the Shakhta case, 11 were sentenced to death, 6 of these sentences were commuted on the ground that the persons had turned State's evidence

In 1931, the trial of the Mensheviks, for wrecking, for conspiracy with foreign groups, and for connections with the kulak uprisings, resulted in sentences of imprisonment, on the ground that the participants were rendered harmless for the future

In 1933, the three leading offenders in the famous Metro-Vickers case were condemned to ten years' imprisonment. In fixing the penalty the court stated:

"In selecting this measure of repression instead of the sentence of shooting, the court was guided exclusively by the fact that the criminal wrecking activities of the aforesaid convicted persons bore a local character and did not cause serious damage to the industrial power of the U S S R "

181 SOVIET FOREIGN POLICY

That the foreign policy of a nation reflects its domestic policy is especially evident in the external relations of Russia. Striving to establish a socialist state in a world of capitalist nations, the Soviet government has sought to provide security from attack. The discussion below is a report delivered by Stalin to the Eighteenth Congress of the Communist party, March 10, 1939. It reviews the current international situation from the Russian point of view and announces the cardinal

principles on which Soviet foreign policy is based. ("The USSR. and the World Situation," *Soviet Russia Today*, April, 1939)

Five years have gone by since the Seventeenth Congress As you see, this is no small period. The world has managed in this period to undergo considerable changes States and countries, and their mutual relations in many respects, have become quite different

What changes exactly have taken place in this period in the international situation? What exactly has changed in the international and internal position of our country? .

A new imperialist war, waged on a huge expanse of territory from Shanghai to Gibraltar and involving over five hundred millions of people, is already in its second year The map of Europe, Africa and Asia is being violently changed The entire post-war so-called peace regime has been shaken to its foundation

Following is an enumeration of the most important events which mark the beginning of a new imperialist war during the period under review In 1935 Italy attacked and seized Ethiopia In the summer of 1936 Germany and Italy organized military intervention in Spain, Germany, establishing her domination in northern Spain and in Spanish Morocco, and Italy in southern Spain and on the Balearic Islands In 1937 Japan, after the seizure of Manchuria, invaded North and Central China, occupied Peiping, Tientsin and Shanghai and began to squeeze out her foreign competitors from the occupied zone In the beginning of 1938 Germany seized Austria and in the autumn of 1938, the Sudeten region of Czechoslovakia At the end of 1938 Japan seized Canton and at the beginning of 1939, Hainan Island

Thus war, which so imperceptibly stole upon the nations, has drawn into its orbit more than 500,000,000 people and has affected a vast territory extending from Tientsin, Shanghai and Canton through Ethiopia to Gibraltar

After the first imperialist war, the victor nations, primarily England, France and the United States, set up a new system of relationships between countries, the post-war peace system The main props of this system were the Nine-Power Treaty in the Far East, the Versailles Treaty and a number of other treaties in Europe The League of Nations was to regulate relationships between countries

within the framework of this system on the basis of a united front of nations, of collective defense of the security of nations

However, the three aggressor states and the imperialist war launched by them have turned upside down this entire post-war peace system. Japan tore up the Nine-Power Treaty, and Germany and Italy the Versailles Treaty. In order to have their hands free, these three states withdrew from the League of Nations. The new imperialist war has become a fact.

War has created a new situation in the relations between countries. It has brought an atmosphere of alarm and uncertainty into these relations. By undermining the foundations of the post-war peace system and overriding the elementary principles of international law, war has called in question the value of international treaties and obligations. Pacifism and disarmament schemes are dead and buried. Feverish arming has taken their place. Everybody has begun arming, from small states to big states, including those and primarily those states which practice the policy of non-intervention. Nobody believes any longer in unctuous speeches alleging that the Munich concessions to the aggressors and the Munich agreement have opened a new era of "appeasement." They are not believed even by the signatories to the Munich agreement, Britain and France, which began increasing their armaments no less than other countries.

Naturally the U S S R could not ignore these portentous events. There is no doubt that any war, however small, started by aggressors in any remote corner of the world, is a danger to peaceable countries. All the more serious, then, is the danger arising from the new imperialist war which has already drawn into its orbit over 500,000,000 people in Asia, Africa and Europe. Consequently, while it unswervingly pursues a policy of preserving peace, our country has at the same time exerted great efforts to strengthen the military preparedness of our Red Army and our Red Navy.

At the same time, in order to consolidate its international position, the Soviet Union decided upon certain other steps too. At the end of 1934, our country joined the League of Nations, considering that with all the weakness of the League, it could still serve as a place for the exposure of aggressors and to a certain degree as an instrument of peace which, though weak, could act as a brake on the unleashing of war. The Soviet Union considers that even a weak international organization like the League of Nations

should not be disdained in such troubled times. In May, 1935, France and the Soviet Union concluded a pact of mutual assistance against possible attacks by aggressors. Simultaneously an analogous pact was concluded with Czechoslovakia. In March, 1936, the Soviet Union concluded a pact of mutual assistance with the Mongolian People's Republic. In August, 1937, the Soviet Union concluded a pact of non-aggression with the Chinese Republic. Thus the Soviet Union has pursued its foreign policy and upheld the cause of the preservation of peace under difficult international conditions.

The foreign policy of the Soviet Union is clear and understandable. These are its main points:

1—We stand for peace and for the strengthening of business-like relations with all countries. This is our position and we will adhere to it as long as these countries maintain identical relations with the Soviet Union, as long as they make no attempt to violate our country's interests.

2—We stand for peaceful, close and neighborly relations with all neighboring countries which have a common frontier with the U.S.S.R. This is our position and we shall adhere to it as long as these countries maintain identical relations with the Soviet Union, as long as they make no attempt to trespass directly or indirectly on the integrity and security of the frontiers of the Soviet state.

3—We stand for the rendering of support to nations which have fallen prey to aggression and are fighting for the independence of their countries.

4—We are not afraid of threats from the aggressors and we are ready to retaliate with two blows for one against instigators of war who attempt to infringe on the integrity of Soviet borders.

This is the foreign policy of the Soviet Union.

In its foreign policy the Soviet Union relies upon:

Firstly, its growing economic, political and cultural strength.

Secondly, the moral and political unity of our Soviet society.

Thirdly, friendship between the peoples of our country.

Fourthly, its Red Army and Red Navy.

Fifthly, its policy of peace.

Sixthly, the moral support of the working people of all countries to whom the preservation of peace is of vital concern.

Seventhly, the common sense of countries which for one reason or another are not interested in the violation of peace

The tasks of the Party in the sphere of foreign policy are

To pursue also in the future a policy of peace and of strengthening businesslike relations with all countries, to be careful not to allow our country to be involved in conflicts by instigators of war who are used to getting other people to pull chestnuts out of the fire for them, to strengthen the fighting power of our Red Army and Red Navy to the utmost, to strengthen our international bonds of friendship with the working people of all countries who are interested in peace and friendship between nations

CHAPTER XXX

EUROPE AT WAR

182 THE OUTBREAK OF WAR

THE descriptions of the foreign policies of the European powers given in earlier chapters reveal the fundamental clash of interests which led to the Second World War. On the one side are nations whose material position is favorable, with large empires, a wealth of raw materials, and strategic advantages. These nations are generally referred to as "the democracies," and they are represented in Europe chiefly by Great Britain and France. On the other side, without extensive resources, are Germany and Italy, who trace their present unsatisfactory status back to the Treaty of Versailles. They are often called "the dictatorships." Russia, also a dictatorship, did not align herself with these nations until the conclusion of the Nonaggression Pact with Germany in August, 1939, partly because of the supposed antagonism between Communism and Fascism, and partly because she was less disgruntled than the other dictator countries with the peace settlement of 1919.

With the advent of Hitlerism in Germany the issue of treaty revision versus the *status quo* immediately assumed a new importance, for, in winning popular support, the German dictator had stressed the iniquities of the Treaty of Versailles and the need of revision. As one after another of the provisions of the

Treaty were either violated or openly renounced by the Nazi Government, it became clear that there would be a final showdown unless the European democracies were willing to overlook endless transgressions of their rights and interests

Germany has for many years been anxious to dominate the nations of Central and Southeastern Europe. This ambition was one of the causes of the World War of 1914-18. She pleads overpopulation, a lack of raw materials, and the need for *lebensraum*. Undoubtedly the *Drang Nach Osten* also has a political motive which, in fact, may be more impelling than the economic. Dictators live on their achievements. The people support or tolerate them so long as they can show that they are enhancing the welfare or glory of the country. An aggressive foreign policy is, therefore, a natural aspect of dictatorship, especially when the nation feels aggrieved.

England and France seemed committed to a policy of appeasement until March, 1939, when Germany took over the portion of Czechoslovakia which remained after the so-called Munich Pact. They had watched German rearmament, the occupation of the Rhineland, and the annexation of Austria, the Sudetenland, and Memel with an equanimity quite pleasing to Hitler. But when Germany absorbed Czechoslovakia, the policy of Great Britain and France suddenly shifted to opposition. A stop-Hitler movement was inaugurated, with pledges of support to Poland, Rumania, and Turkey in the event that those nations were attacked. In view of the fact that the Polish Corridor and Danzig appeared to be the next objective of German expansion, a military alliance with Poland was concluded.

In the midst of Franco-British negotiations with Russia to bring that country into the "peace front," a bombshell was thrown into diplomatic circles with the announcement of a nonaggression pact between Germany and Russia. This suggested that Russia not only would tolerate German advances into Poland but might also actively support such an invasion with the hope of reacquiring Polish territory held by Tzarist Russia in 1914.

During the last week of August, 1939, diplomatic relations were tense between the European capitals. Great Britain and France made it clear that their pledge to Poland would be kept. Hitler displayed no tendency to back down on his demands for the City of Danzig and the Corridor. Mussolini seemed anxious to find a formula for peace, but his efforts, like those of President Roosevelt and others, were futile.

On September 1, 1939, German troops crossed the frontier into Poland. Two days later Great Britain and France declared war on Germany. Similar declarations were soon made by the British Dominions. On September 17, 1939, Russian troops entered Poland from the east. Resistance was soon crushed, and Polish territory was divided provisionally between Germany and Russia. German overtures to France and Great Britain early in October, for a general peace based upon the division of Poland were refused and the war continued.

In time of war democracies must adjust themselves to the new conditions. In general, it becomes necessary to tighten authority so that every resource can be thrown into the supreme effort to defeat the enemy. There must be a concentration of power, and the right of popular criticism so characteristic of democracy must be curbed.

On the other hand, a totalitarian dictatorship is already on a substantial war basis. There is regimentation, centralization, and strict censorship in such countries even in time of peace. Only minor wartime adjustments may be necessary so far as governmental organization is concerned. Financial adjustments are, however, necessary. On September 23, the German Defense Council issued a decree authorizing the Finance Minister to raise extraordinary war credits up to 15,000,000,000 marks.

On August 24, before Britain was at war, Parliament passed a statute giving to the Government special emergency powers. Under it, the Government might take appropriate measures "for securing safety and for efficient prosecution of any war." On September 1, Parliament approved a bill appropriating

500,000,000 for national defense. At the same time the Ministry of Transport took over the railroads. The Government also assumed control over all employment so that it might be able to maintain a maximum productivity. A small War Cabinet was organized, and a new ministry, the Ministry of Economic Warfare, was created with Mr. Ronald Cross in charge. Late in September Sir John Simon, Chancellor of the Exchequer, told Parliament that the cost of the first year of war for Great Britain would be approximately £2,000,000,000. He proposed additional taxes on beer, wine, sugar and tobacco, together with a general increase in the income tax rate from 27.5 per cent to 37.5 per cent.

France also prepared for war. The law of July 11, 1938, providing for a general reorganization of the country in time of war, was put in effect. Transportation facilities were taken over by the government. A huge appropriation was voted. The war had begun in earnest.

There are two groups of selections in this chapter, the first relating to the outbreak of war and the second to governmental adjustments made by the belligerents during the early weeks of the war. As the war progresses other alterations will doubtless become necessary, particularly if the war should be continued for several years.

A TEXT OF GERMAN-RUSSIAN NONAGGRESSION PACT,
AUGUST 23, 1939¹

The German Reich Government and the Union of Soviet Socialist Republics, moved by a desire to strengthen the state of peace between Germany and the U. S. S. R. and in the spirit of the provisions of the neutrality treaty of April, 1926, between Germany and the U. S. S. R., decided the following:

Article I. The two contracting parties obligate themselves to refrain from every act of force, every aggressive action and every attack against one another, including any single action or that taken in conjunction with other powers.

Article II. In case one of the parties of this treaty should become

¹ *Current History*, October, 1939, p. 10.

the object of warlike acts by a third power, the other party will in no way support this third power

Article III The governments of the two contracting parties in the future will constantly remain in consultation with one another in order to inform each other regarding questions of common interest

Article IV Neither of the high contracting parties will associate itself with any other grouping of powers which directly or indirectly is aimed at the other party

Article V In the event of a conflict between the contracting parties concerning any question, the two parties will adjust this difference or conflict exclusively by friendly exchange of opinions or, if necessary, by an arbitration commission

Article VI The present treaty will extend for a period of ten years with the condition that if neither of the contracting parties announces its abrogation within one year of expiration of this period, it will continue in force automatically for another period of five years

Article VII The present treaty shall be ratified within the shortest possible time The exchange of ratification documents shall take place in Berlin The treaty becomes effective immediately upon signature

B PRIME MINISTER CHAMBERLAIN'S ANNOUNCEMENT TO
THE HOUSE OF COMMONS OF THE EXISTENCE OF A STATE OF
WAR, SEPTEMBER 3, 1939¹

"When I spoke last night to the house I could not but be aware that in some parts of the house there were doubts of bewilderment as to whether there had been hesitation or vacillation on the part of the government

"If I had been in the same position as members and not in possession of all information I might have felt the same

"We were in consultation all day yesterday with the French government and we felt that the intensified action which the Germans were taking against Poland allowed of no delay in making our position clear

"Accordingly we decided to send to our ambassador in Berlin in-

¹ The New York Times, September 4, 1939, p 8

structions which he was to hand at 9 o'clock this morning to the German foreign secretary which read as follows

"Sir, in a communication which I had the honor to make to you on Sept 1, I informed you on the instructions of his majesty's principal secretary of state for foreign affairs that unless the German government were prepared to give satisfactory assurances that the German government would suspend all aggressive action against Poland and were prepared promptly to withdraw their forces from Polish territory, his majesty's government in the United Kingdom would without hesitation fulfill their obligations to Poland.

"Although this communication was made more than twenty-four hours ago no reply has been received German attacks on Poland have been continued and intensified

"I have accordingly to inform you that unless, no later than 11 A M British summer time today, Sept 3, satisfactory assurances to above the effect have been given by German government and have reached his majesty's government in London, a state of war will exist between two countries as from that hour

"No such undertaking was received by the time stipulated and consequently this country is now at war with Germany

"I am in a position to inform the house that, according to arrangements made between the British and French governments, the French ambassador in Berlin is at this moment making a similar demarche accompanied also by a definite time limit

"The house has been made aware of our plans and as I have said we are ready.

"It is a sad day for all of us, but for none is it sadder than for me Everything I had worked for, hoped for, and believed in during my public life has crashed into ruins

"There is only one thing left for me and that is to devote what strength that power I have to forwarding victory of the cause for which we have to sacrifice ourselves I cannot tell what part I may be allowed to play, but I trust I may live to see the day when Hitlerism has been destroyed and a restored and liberated Europe has been reestablished."

C KING GEORGE VI APPEALS TO HIS SUBJECTS ¹

"In this grave hour, perhaps the most fateful in our history, I send to every household of my peoples, both at home and overseas, this message, spoken with the same depths of feeling for each one of you as if I were able to cross your threshold and speak to you myself

"For the second time in the lives of most of us, we are at war. Over and over again we have tried to find a peaceful way out of the differences between ourselves and those who are now our enemies, but it has been in vain.

"We have been forced into a conflict, for we are called, with our allies, to meet the challenge of a principle which, if it were to prevail, would be fatal to any civilized order in the world.

"It is a principle which permits a state in the selfish pursuit of power to disregard its treaties and its solemn pledges, which sanctions the use of force or threat of force against the sovereignty and independence of other states.

"Such a principle, stripped of all disguise, is surely the mere primitive doctrine that might is right. And if this principle were established through the world, the freedom of our own country and of the whole British commonwealth of nations would be in danger.

"But far more than that, the peoples of the world would be kept in the bondage of fear, and all hopes of settled peace and of security, of justice and liberty among nations, would be ended.

"This is the ultimate issue which confronts us. For the sake of all that we ourselves hold dear, and of world order and peace, it is unthinkable that we should refuse to meet the challenge.

"It is to this high purpose that I now call my people at home and my peoples across the seas who will make our cause their own.

"I ask them to stand calm and firm and united in this time of trial.

"The task will be hard. There may be dark days ahead and war can no longer be confined to the battlefield, but we can only do the right as we see the right, and reverently commit our cause to God. If one and all we keep resolutely faithful to it, ready for whatever service or sacrifice it may demand, then, with God's help, we shall prevail. May he bless and keep us all."

¹ The Manchester Guardian Weekly, XLI, No 10, September 8, 1939, 190

D PREMIER DALADIER TO THE CHAMBER OF DEPUTIES,
SEPTEMBER 2, 1939¹

Today the government has ordered general mobilization

Its duty now is set before you the facts to their fullest extent and with frankness and clarity

During the day of Aug 31, the crisis reached its culminating point As soon as Germany informed Britain she would accept direct negotiation with Poland, Poland, despite the menace caused by the sudden military invasion of Slovakia by the German armies, immediately tried to have recourse to this peaceful method

At 1 o'clock that afternoon Ambassador Lipski asked for an audience with Foreign Minister von Ribbentrop Peace seemed to have been saved But the Reich's Foreign Minister would not receive M Lipski until 7 45 Although the latter announced the agreement of his government to direct conversations, the German Minister refused to communicate Germany's demands to the Polish Ambassador on the pretext that he did not possess the full power to accept or reject them on the spot

At 9 o'clock the German radio made known the nature and extent of these demands and added that Poland had rejected them It was a falsehood since Poland had not been informed of them

On Sept 1 at dawn the Fuehrer gave his troops an order to attack. Never was aggression more evident or more unjust Never was such a work of falsehood and cynicism invented to justify aggression.

Thus war was launched at a moment when great forces had been set in motion for peace and when the most respected authorities of the entire world were exerting their influence on the two parties to induce them to open negotiations for a direct settlement of the conflict which was confronting them

All that we did before the outbreak of hostilities we are still ready to do If a move for conciliation is renewed we still are ready to join in it If the fighting should cease and if the aggressors should return within their borders, and if free negotiation could then begin, you may believe me, gentlemen, that the French Government would spare no effort to attain success, even now, in the interests of world peace

¹ *Current History*, October 1939, pp 18 19

Is this the simple question of the German-Polish conflict? No, gentlemen, it is a new phase in the march of the Hitler dictatorship toward its goal—domination of Europe and of the world. How, indeed, can it be forgotten that German claims to Polish territory have long been written on the map of Greater Germany and were only camouflaged for a few years in order more easily to accomplish other conquests!

We are told today that once the German claims on Poland have been satisfied Germany will bind herself to everlasting peace with the world. You may recognize these words!

On May 25, 1935, Hitler agreed not to intervene in the internal affairs of Austria and not to add Austria to the Reich. And on the eleventh of May, 1938, the army entered Vienna, and Dr. Schuschnigg, for having dared to defend the independence of his country, was thrown into prison.

On Sept. 12, 1938, Hitler said that the Sudeten problem was an internal question which concerned only the German minority in Bohemia and the Czecho-Slovak Government. A few days later he unmasked his ambitions, pretending they had been legitimized by violence of Czech persecutions.

On Sept. 26, 1938, Hitler declared that the Sudeten territories represented the last territorial claims he had to make in Europe. On March 14, 1939, President Hacha was called to Berlin and ordered in the harshest terms to accept an ultimatum. A few hours later Prague was occupied without regard for the given signatures.

Finally, on Jan. 30, 1939, Hitler lauded the pact of nonaggression which he signed five years previously with Poland. He hailed this accord as a contribution to freedom and solemnly proclaimed his intention to respect its clauses.

But it is Hitler's acts which count and not his words.

Moreover, gentlemen, it is not alone a question of our country's honor. It also concerns the protection of her vital interests. For a France which has failed to keep its signature would soon become a France despised and isolated, without allies and would soon be subjected to a dreadful onslaught.

E. CHANCELLOR HITLER'S REICHSTAG SPEECH,
SEPTEMBER 1, 1939¹

"Delegates and men of the German Reichstag

"For months long we have been suffering under the torturing problem which the Versailles Treaty, that is, the dictate of Versailles, once left us, a problem which in development and distortion has become unbearable for us

"During the fifteen years preceding National Socialism's rise to power there was ample opportunity to revise the Versailles Treaty by peaceful means. But the revisions were not made

"I, not once, but many times, made proposals for revision of the unbearable conditions. All these proposals were, as you know, refused. I need not singly enumerate proposals for arms limitations—yes, even if necessary, the abolition of arms—proposals for restriction of waging war, for elimination of what in my eyes were methods of waging war incompatible with international law

"You know the proposals which I made concerning the necessity to reinstitute German sovereignty over the territories of the Reich.

"You know the endless attempts which I made to come to a peaceful settlement of the Austrian and later, the Sudeten, Bohemian, Moravian problems—they were all in vain.

"It is also impossible to say that he who, in such a situation, takes revision into his own hands is violating law, for Versailles is no law for German people

"It is impossible to force someone at pistol's point and threat, let millions starve to death and then proclaim as solemn law a document with an enforced signature.

"That they had to be solved was clear. That the time limit for this solution might have been uninteresting to the Western powers is understandable. To the suffering victims however this was of great concern.

"In discussion with Polish statesmen I have ventilated and talked over such ideas as you heard here in my latest previous Reichstag speech. I formulated the German proposals and I must repeat once more there could be nothing fairer or more modest than these proposals.

"I wish to say here before the world that I alone was in a position

¹ *Facts in Review*, Vol I, No 6, September 14, 1939

to make such proposals because I know that thereby I opposed the ideas of millions of Germans. These proposals were rejected. Not only that, but they were answered with mobilization, with increased terrorism and pressure against Germans in this territory, and with a steady campaign of strangulation against the city of Danzig, first economic and political, and, in recent weeks, military.

"Poland has unleashed the fight against the Free City of Danzig. Furthermore, she was unwilling to solve the Corridor question in a way which would correspond to the equitable interests of both parties. And finally, she has not cared to keep her obligations concerning her minorities. At this point I have to make the following statement: Germany has lived up to her obligations. For example, is there a Frenchman who can truthfully say that Frenchmen living in the Saar region are being suppressed, tortured or deprived of their rights? Nobody will be able to maintain that.

"For four months I watched these developments calmly, although not without repeated warnings. I strengthened these warnings recently. I caused the Polish Ambassador to be informed over three weeks ago that if Poland continued to deliver ultimative notes to Danzig and used further measures of pressure against Germans there, or if she sought to destroy Danzig economically through a customs war, then Germany could no longer remain idle.

"And I left no one in doubt that in this connection Germany of today could not be confused with the Germany that preceded. An attempt was made to excuse actions against Germans by claiming these Germans had engaged in provocations. I did not know what provocations these women and children committed who were mistreated or dragged off, or what those provocations were on the part of those who were mistreated and killed in terrorizing, sadistic fashion.

"I do not know that, but I do know that there is no great power with honor that would watch such a situation indefinitely.

"I even attempted for the last time, although I admit I was inwardly convinced that the Polish Government, perhaps because of its dependence on wildly unleashed Soldateska (undisciplined soldiery), was not seriously inclined to achieve real understanding.

"I attempted for the last time to accept an offer of mediation on the part of the British Government. The British Government proposed that itself should not conduct negotiations but proposed to

establish direct contact between Germany and Poland in order in this way to initiate conversation

"I must now state the following I accepted this proposal I worked out the basic points for the conversations, which are known to you, and I and my government sat there for two full days and waited until it should suit the Polish Government to at last send us a man with full powers

"By last night they had not sent a plenipotentiary, but they let us know through their ambassador they were now contemplating whether and how far they were able to consider British proposals They would let England have their decision

"My deputies, if it was possible to make the German Reich and its head of state take this, and if the German Reich and its head of state would suffer it, then the German nation would not deserve anything better than to disappear from the political stage My love of peace and endless patience should not be confounded with weakness or even cowardice

"Hence, I decided last night to communicate also to the British Government that I could not find any inclination on the part of the Polish Government to enter with us into any really serious conversation

"Therewith, an attempt at mediation had failed Meantime, general mobilization was given as Poland's first answer to this proposal for mediation, and, as further answer, there were new atrocities These events have been repeated today Recently, in one night, twenty-one border incidents occurred, last night fourteen were perpetrated, including three extremely serious ones

"I am happy, however, to report to you a far-reaching event You know that Russia and Germany are ruled by two different doctrines There was only one question that remained to be cleared Germany does not intend to export her doctrine to Russia I see no reason that we ever again will take a stand against one another

"We both realize this, that every fight of our peoples against one another would be advantageous only for others We, therefore, agreed to conclude a pact which excludes for all the future any application of force between us, which obligates us to consultations in certain European questions and makes possible economic collaboration and, above all, assures that the forces of these two great states will not be spent against each other

"Any attempt of the West to alter this will fail

"At this point I wish to assure you that this political decision means a tremendous change for the future and is final. I believe the entire German people will welcome this political stand. Russia and Germany fought each other during the World War and both were the ones who suffered most in the end. This shall and will not happen a second time. The non-aggression pact and the consultation pact which became valid on the day of their signature, have been ratified in both Moscow and Berlin. In Moscow this pact was welcomed as much as we welcome it here.

"I can endorse word for word a speech by the People's Commissar, Molotoff, the Russian Minister. As to our aims: I'm firstly determined to solve the Danzig problem, secondly, to settle the problem of the Corridor and, thirdly, make certain that German-Polish relations will be changed in a way permitting peaceful living side by side. I, therefore, am determined to fight until either the Polish Government is ready to bring about such conditions or until another Polish Government is inclined to do so.

"Poland last night for the first time shot at our territory with regular soldiers. Since 5:45 a.m. we have been returning fire and from now on we will answer bomb with bomb, and he who fights with poison gas will be fought with poison gas.

"He who does not follow the rules of humane war can expect nothing from us but that we take the same step. I will wage this fight—no matter against whom—until the security of the Reich and its rights are achieved.

"I now have labored over six years in constructing the German armed forces. During this time over 90,000,000,000 marks have been spent for the organization of our defense forces. It today is the best equipped in the world and far above comparison with the forces of 1914. My trust in it is unshakeable. I am justified if I now call up this armed force, and when I now demand sacrifice and, if necessary, all sacrifices from the German people.

"I myself am today as ready as I once was to make every personal sacrifice. I expect no more of any German man than what I for four years was voluntarily prepared to do. There shall be no privations in Germany which I myself will not immediately endure. My whole life from now on belongs still more exclusively to my people. I now do not want to be anything but the first soldier of the German Reich.

"I, therefore, again put on the uniform which once had been

most sacred and dearest to me. It will be taken off only after victory or death.

"Should something happen to me during battle my first successor will be Party Member Goering. Should something happen to Goering, his successor will be Party Member Hess. You then would be pledged to this Fuhrer in the same blind loyalty and obedience as to me.

"Should something happen to Party Member Hess, I will through law, have the Senate called, which will choose the worthiest, that is the bravest, from its midst. I enter this fight with a strong heart as a National Socialist and a German soldier. My whole life was nothing more than a single struggle for my people and the rebirth of Germany.

"This fight was inspired by one ideal only: the faith in my people.

"I never learned one word—capitulation. But if anybody thinks we might face a hard time, I would ask him to consider that once a Prussian king with a ridiculously small state was confronted with one of the greatest coalitions of all times, and after three wars finally succeeded in preserving the nation's integrity, because he had that strong and faithful heart that we too need in this time.

"I, therefore, want to assure the entire world that November, 1918, will never again be repeated in German history.

"I am ready any time to stake my life. Any one may take it for my people and Germany. I demand that of every other. Whoever believes himself able, directly or indirectly, to withstand this national command, will fall. Traitors can expect nothing but death. We all recognize an old fundamental principle: *It is totally unimportant whether we live, but it is essential that Germany lives.*

"I expect of you, as deputies of the Reich, that each of you at his post performs his full duty. You must be flagbearers of the cause, cost what it may. You are vehicles of that sentiment in your districts and I am responsible for the sentiment of the entire German people.

"Nobody has a right to escape this responsibility. Sacrifices which are demanded of us are no greater than those demanded of numerous generations before us. All those men before us who made great sacrifices for Germany have not achieved anything more than we have to accomplish. Their sacrifice was no cheaper, no less painful and no easier, than the sacrifice . . . demanded of us."

"I also expect from German women that they enter this common struggle in a spirit of iron discipline. German youth will fulfill with glowing hearts that which the National Socialist state expects and demands. If we construct this community, resolved to never capitulate on our demands, then our wills can master every situation.

"And I want to close with a confession I once made when I commenced my struggle for power in the Reich. I said then that when our will-power is so strong that no calamity could force it down, then our will-power and our steel would also be able to conquer any emergency.

"Deutschland—Sieg Heil."

F ITALY'S NEUTRALITY A STATEMENT BY THE COUNCIL OF
MINISTERS, SEPTEMBER 2, 1939¹

"The council, having examined the situation brought about in Europe as a consequence of the German-Polish conflict, whose origin lies in the Versailles treaty, took note of all the documents presented by the foreign minister showing the work done by the Duce to assure Europe of peace based on justice,

"Gave its full approval to the military measures adopted to date, which have and will remain purely precautionary in character and are adequate for that purpose.

"Approved dispositions of an economic and social character made necessary by the grave disturbances into which European life has entered,

"Declares and announces to the people that Italy will take no initiative whatever toward military operations,

"Paid the highest praise to the Italian people for the example of discipline and calm which it has always given."

183 GOVERNMENTAL ADJUSTMENTS FOR WAR

A EMERGENCY POWERS (DEFENCE) ACT, AUGUST 24, 1939

The following is a summary of the Act of August 24, 1939, giving the British Government special emergency powers for war²

¹ The New York Times, September 2, 1939, p. 1

² The London Times, August 25, 1939

1 — (1) Subject to the provisions of this section, his Majesty may by Order in Council make such Regulations (in this Act referred to as "Defence Regulations") as appear to him to be necessary or expedient for securing the public safety, the defence of the realm, the maintenance of public order and the efficient prosecution of any war in which his Majesty may be engaged, and for maintaining supplies and services essential to the life of the community

(2) Without prejudice to the generality of the powers conferred by the preceding subsection, Defence Regulations may, so far as appears to his Majesty in Council to be necessary or expedient for any of the purposes mentioned in that subsection —

(a) Make provision for the apprehension, trial, and punishment of persons offending against the Regulations and for the detention of persons whose detention appears to the Secretary of State to be expedient in the interests of the public safety or the defence of the realm,

(b) authorize—

(1) the taking of possession or control, on behalf of his Majesty, of any property or undertaking,

(11) the acquisition, on behalf of his Majesty, of any property other than land,

(c) authorize the entering and search of any premises, and

(d) provide for amending any enactment, for suspending the operation of any enactment, and for applying any enactment with or without modification

(3) Defence Regulations may provide for empowering such authorities, persons, or classes of persons as may be specified in the Regulations to make orders, rules, and bye-laws for any of the purposes for which such Regulations are authorized by this Act to be made, and may contain such incidental and supplementary provisions as appear to his Majesty in Council to be necessary or expedient for the purposes of the Regulations

2 — (1) The Treasury may by order provide for imposing and recovering, in connexion with any scheme of control contained in or authorized by Defence Regulations such charges as may be specified in the order, and any such order may be varied or revoked by a subsequent order of the Treasury

(2) Any charges recovered by virtue of such an order as aforesaid shall be paid into the Exchequer of the United Kingdom or,

if the order so directs, be paid into such public fund or account as may be specified in the order

(5) Without prejudice to the preceding provisions of this section, any Defence Regulations may provide—

(a) for charging, in respect of the grant or issue of any licence, permit, certificate, or other document for the purposes of the Regulations, such fee not exceeding £5 as may be prescribed under the Regulations with the approval of the Treasury, and

(b) for imposing and recovering such charges as may be so prescribed in respect of any services which, in pursuance of such Regulations, are provided on behalf of his Majesty, or under arrangements made on behalf of his Majesty, other than services necessary for the performance of duties imposed by law upon the Crown,

11 —(1) Subject to the provisions of this section, this Act shall continue in force for the period of one year beginning with the date of the passing of this Act, and shall then expire

Provided that, if at any time while this Act is in force, an address is presented to his Majesty by each House of Parliament praying that this Act should be continued in force for a further period of one year from the time at which it would otherwise expire, his Majesty may by Order in Council direct that this Act shall continue in force for that further period

(2) Notwithstanding anything in the preceding subsection, if his Majesty by Order in Council declares that the emergency that was the occasion of the passing of this Act has come to an end, this Act shall expire at the end of the day on which the Order is expressed to come into operation

(3) The expiry of this Act shall not affect the operation thereof as respects things previously done or omitted to be done

B THE BRITISH WAR CABINET

During the World War of 1914-18 Great Britain found it advantageous to form a small coalition cabinet of five members. Following this practice, Prime Minister Chamberlain announced a new wartime cabinet immediately after the commencement of hostilities. The Cabinet personnel is given below

Prime Minister—Mr. Neville Chamberlain
Chancellor of the Exchequer—Sir John Simon
Secretary of Foreign Affairs—Lord Halifax
Minister for the Co-ordination of Defence—Lord Chatfield
First Lord of the Admiralty—Winston Churchill
Secretary for War—Mr. Hore-Belisha
Secretary for Air—Sir Kingsley Wood
Lord Privy Seal—Sir Samuel Hoare
Minister without Portfolio—Lord Hankey

C THE MINISTRY OF ECONOMIC WARFARE ¹

The Ministry of Economic Warfare will correspond broadly to the Ministry of Blockade which was created during the last war. This was announced by the Ministry of Information on Wednesday. The aim of the Ministry of Economic Warfare is to disorganize the economy of the enemy so as to prevent him from effectively carrying on the war, and its work will be to start and co-ordinate all necessary measures in the economic, financial, and industrial spheres.

Economic warfare must be regarded as a vital offensive arm complementary to the operation of the three services and the activities of the Ministry will be of the widest scope. At the same time every effort will be made to take account of the legitimate trading needs of neutral countries. The Ministry is no hasty improvisation. The task of creating the necessary organization has been in progress for the past two years, and a complete staff, drawn partly from the Civil Service and partly from expert quarters in the City and elsewhere, was earmarked some months ago.

The Ministry will work in the closest touch with the corresponding French authorities, and in order to secure the necessary liaison an expert French delegation led by Mr. Paul Morand, has arrived in London and is already working in the Ministry.

The Ministry of Economic Warfare draws the attention of all persons concerned to the undesirability in present circumstances of shipping goods destined for neutral countries in Europe consigned "to order," or without naming the consignee. While this may be the normal practice in certain trades in time of peace, it is pointed out that it is likely in the conditions now obtaining to lead

¹ *The Manchester Guardian Weekly*, XLI, No. 10, September 8, 1939, 186.

to difficulties and delays in the examination of cargoes for purposes of contraband control.

D BRITISH WARTIME INCOME TAXES ¹

The following table shows normal income taxes and surtaxes payable, after deduction of appropriate allowances, by four specimen categories of Britons under the schedules approved by the House of Commons (September 27, 1939). At the present rate of exchange the pound is worth approximately \$4, which makes each shilling worth about 20 cents

Income	Single Person	Married Couple without Children	Married, with 1 Child	Married, with 2 Children
£ 120	15s-7d			
250 £	20- 2s-6d	£ 7- 3s-9d		
300	28 2s 6d	15	£ 5 12s 6d	
400	56 11s 3d	30-12s 6d	21 15s	£ 11- 7s 6d
500	87-16s-3d	61-11s 3d	42 16s 3d	27-10s
1,000	244 6s 3d	217-16s 3d	199 1s 3d	180- 6s 3d
1,500	400- 6s 3d	374- 1s-3d	355 6s-3d	336-11s 3d
2,000	587-16s 3d	561-11s 3d	542 16s-3d	524- 1s 3d
3,000	1,031-11s 3d	1,005- 6s-3d	986 11s 3d	967-16s 3d
5,000	2,081-11s 3d	2,055- 6s-3d	2,036 11s-3d	2,017-16s 3d
10,000	5,294- 1s 3d	5,267 16s 3d	5,249 1s-3d	5,230- 6s-3d
20,000	13,044- 1s 3d	13,017-16s-3d	12,249 1s 3d	12,080- 6s-3d
50,000	38,294- 1s-3d	38,287-16s-3d	38,249 1s-3d	38,230- 6s 3d
100,000	80,794- 1s 3d	80,767-16s-3d	80,749 1s 3d	80,730- 6s 3d
150,000	123,294 13s	123,267-16s 3d	123,249 1s 3d	123,230- 6s 3d

E. GERMAN DEFENSE COUNCIL ²

A Ministerial Council of six for the defense of the Reich, headed by Field Marshal Goering, was formed by a decree of Chancellor Hitler on Wednesday after he had conferred with ministers and the heads of the armed forces. The decree means a very considerable concentration of power for quick action. The new Council has power to pass any law without consulting the Reich Cabinet or the Reichstag. It can also issue important decrees without delay and without the Chancellor's signature.

¹ The New York Times, September 28, 1939, p. 8.

² The Manchester Guardian Weekly, XLI, No. 9, September 1, 1939, 165.

The members of the new council are—Field Marshal Goering, as chairman, The deputy of the Fuehrer, Herr Rudolph Hess, The Plenipotentiary General for the Reich Administration, Dr Frick, who is Minister of the Interior, The Plenipotentiary General for Economic Affairs, Dr Funk, who is Minister of Economics and President of the Reichsbank, Reich Minister and chief of the Reich Chancellery, Dr Lammers, Chief of the Supreme Command of the Armed Forces, General Keitel

It is pointed out in political quarters in Berlin that the chief characteristic of the new council is the concentration of military and political powers. This marks a great difference from 1914-18 when the military leadership and the political leadership were often at loggerheads. If a serious conflict arose the new decree would insure the closest co-operation between the military and political spheres.

The text of the decree issued by Hitler states that the measures taken are "for the time of the present political tension abroad."

The new chairman of the new council has power to co-opt other members of the Reich Defense Council (of which the new council will be a permanent committee) as well as other persons to take part in the deliberations. The ministerial Council may issue decrees with the force of law in case the Chancellor does not decree the passing of a law by the Reich Government or Reichstag. The Chancellor will determine the date on which the decree forming the council expires.

F. FRENCH LAW ON THE GENERAL ORGANIZATION OF THE NATION IN TIME OF WAR, JULY 11, 1938

The statute below, enacted more than a year before the war began, explains much of the wartime reorganization of France. (*Journal Officiel*, July 13, 1938, p. 833. Translated by the editors.)

CHAPTER I—GENERAL PRINCIPLES

Article 1 Measures intended to make the transition from a state of peace to one of war are hereby prescribed.

The execution of all or a part of these measures may be ordered, whether in the event of manifest aggression placing the country in need of defense, under provisions of the Covenant of the League

of Nations, or in case of diplomatic tension calling for such action

Article 2 The Government responsible for national defense, during peace is in charge of

The mobilization of land, sea, and air forces,

The utilization in war of all the strength and resources of the country,

The preparation of measures having for their object the organization of the country for war, acting on the advice of the Superior Council for National Defense whose structure, duties, and secretary-general are under the high authority of the President of the Council .

Article 3 The mobilization of the land, sea, and air forces is regulated by military law .

Article 4 Measures dealing with the utilization in war of all national resources are prepared and executed by the ministries under the high authority of the President of the Council and the control of the Minister of National Defense

CHAPTER II—THE EMPLOYMENT OF PEOPLE AND RESOURCES

Article 14 In case of mobilization, as provided in Article 1 of the present law, French citizens of male sex over eighteen years of age . may be requisitioned under conditions fixed by the law of July 3, 1877, as amended by the law of January 21, 1935, by the law of March 31, 1928, and by the present law

Those requisitioned may be used in government service or in concerns operating in the interest of the nation, in accordance with their profession and training, or, it may be, according to their abilities in the case of the youngest, taking into account the situation of the family

Article 22 Over all national territory and in all territorial waters, the title to or use of all wealth, movable and immovable, patents and concessions may be requisitioned for the needs of the country, following the provisions of the law of July 3, 1877, as amended by the law of January 21, 1935, the law of March 31, 1928 .

Article 23 The compensation for requisition will be computed on the basis of the loss which the temporary or permanent dispossession imposes from the day of requisition, allowance being made for profits which might have been made from the free use

by the owner of the property, and high prices caused by speculation or by any circumstance caused by the war or the tension .

CHAPTER III—DURATION OF THE WAR AND PUBLIC POWERS

Article 33 The members of the Government, on whom falls responsibility for the duration of the war, and the members of Parliament will continue to exercise the national sovereignty in time of war as in peace . .

The chambers continue to control the acts of the ministers

Article 40 To assure unity in the military direction of the war and in the decisions of the Government, there will be created at the time of mobilization or in the eventuality mentioned by Article 1 of the present law, a "Committee of War," presided over by the President of the Republic, whose composition will be fixed by decree . .

The commanders-in-chief of the land, sea, and air forces will assume, within their respective spheres, and according to directions from the Committee of War, the "*conduite supérieure des opérations*" .

CHAPTER IV—ECONOMIC ORGANIZATION IN WAR

Article 44 In time of peace a specialized office in each ministry is charged with the preparation of the organization for war and of measures required at the time of mobilization or in eventualities mentioned by Article 1 of the present law. . . .

Among the measures to be taken are those agreements, etc., each ministry concludes, in time of peace, with private firms and affected businesses. . .

Article 46 In mobilization or in the eventualities foreseen in Article 1 of the present law, decrees of the Council of Ministers, proposed by a responsible member, may regulate or suspend the importation, exportation, circulation, use, detention, and sale of certain resources, may tax them or ration their consumption. .

Article 50 With mobilization, or in the eventualities foreseen in Article 1 of the present law, the various transport services, in so far as may be necessary for military needs or for the needs of the country, shall be centralized and placed under the authority of a single minister.

Article 52. With mobilization or in the eventualities foreseen in

Article 1 of the present law, information relating to the production and distribution of commodities necessary to the armed forces or to the civilian population, as well as measures relating to them, shall be centralized under the authority of a single minister

Article 53. With mobilization or in the eventualities foreseen in Article 1 of the present law, the manufacture and distribution of industrial products necessary to the economic life of the country, which are not centralized under the provisions of Articles 51 and 52 above, will be placed under the authority and responsibility of the Minister of Commerce and Industry .

G FRENCH DECREE ON THE CONTROL OF THE PRESS AND
OTHER PUBLICATIONS, AUGUST 28, 1939

(*Journal Officiel*, August 28, 1939, p 10806 Translated by the editors.)

Article 1 After August 28, 1939, printed material, drawings or written matter of every kind, intended for publication, the texts of all radio programs and of all moving pictures, will be placed under the control of the service *général d'informations*, which will have the right to prohibit their publication, announcement, or display

Article 2. The exportation of all undeveloped photographic or moving-picture films is forbidden

Article 3 Developed moving-picture films may not be exported outside the territory unless they have been approved by the head of the service *d'information* or his agent

Developed photographic films intended for exportation must be submitted to the prefect of the department in which they were taken, in the Seine, to the director of the service *d'information* or his agent

INDEX

INDEX

- Abdication, of Edward VIII, 33 37
 Adams, W G S, on British constitution, 215-217
 Administration *See* Ministry, Civil Service
 Administrative discretion, in Great Britain, 78 83
 Administrative jurisprudence, in France, 348 351
 Administrative legislation, in Great Britain, 80 81
 Agriculture, in Great Britain, 225-229, in Italy, 534 538, in Russia, 613 619
 Aldermen, in English county councils, 202-203
 Amendments, constitutional *See* Constitution
 Ampthill, rural district of, 198
 Appointments, of ministers in Great Britain, 42 47, in British civil service, 87-89, in French civil service, 290-292, of judges in France, 347
 Appropriations *See* Budgets
 Ascoli, Max, on church and state in Italy, 529 531
 Asquith, Earl of Oxford and, on relations of Lords and Commons, 19-21
 Auditing, of local government accounts in Great Britain, 205 208
 Austria, annexation of, 451-453
 Bacon, H S, on judges in France, 346 348
 Bagehot, W, on the influence of the king in Great Britain, 31 32
 Bank of France, 366 368
 Barthélemy, Joseph, on the French constitution, 254 259
 Barnsley, county borough of, 195
 Bassett, R, on the British prime minister, 40 42
 Beauplan, R de, on cabinet stability in France, 283 285, on voting, 336 337
 Bill of Rights, of 1689 in England, 10 12
 Bills *See* House of Commons, Private Bills, Private Members' Bills, Chamber of Deputies, etc
 Blackstone, William, on the supremacy of parliament, 12-13
 Blum, Leon, and the Popular Front, in France, 355-356
 Board of Trade, in Great Britain, a hearing before, 141-143
 Boris, George, on Bank of France, 366 368
 Borough, in Great Britain, municipal, 196 197, metropolitan, of London, 208-210
 Brentford, Lord, on the Home Office in Great Britain, 70-73
 Browne, Geoffrey S, on agriculture in Great Britain, 225 229

- Bryce, Viscount James, report on second chamber, 106-109
- Budgets, in Great Britain, 147-150, in France, 312 315, in Russia, 622 624
- Bureaucracy, in Great Britain, 78 83, in France, 290 293
- Cabinet, in Great Britain, 40 ff, formation of, 42-47, oath of members of, 47-48, personnel of, 53-56, solidarity of, 61 63, solidarity of, abandoned, 63-64, routine of a minister of, 74-78, control over legislation of, 80 81, control over finance of, 81 82, war, 655 656 For French, German, and other cabinets, see Ministry
- Capitalism, in Germany, 429 432
- Carr Saunders, A M, and Wilson, P A, on barristers and solicitors, 175 179
- Cecil, Lord Hugh, on the British constitution, 3
- Central control, of British local government, 205 206
- Centralization, in France, 293-297, in Germany, 414 416, in Italy, 499 502, in Russia, 596 600
- Chamber of Deputies, in France, constitutional basis of, 249, right of, to dissolve, 287 289, characteristics of, as a legislative body, 300 302, party groups in, 303, rules of procedure of, 304 306, committees of, 305; interpellation of, 306 311, control of finance of, 311-315, criticism of, 315-316, in Italy, superseded by corporations, 491 495
- Chamber of Fasci and Corporations, 491 495
- Chamberlain, Neville, on resignation of Duff Cooper, 66, on Compulsory Military Service Act, 242-244, announcement of war, 643-644
- Chancellor, under Nazi regime, 398 399
- Chancellor of Exchequer, in Great Britain, 46, 147
- Charter of Labor, in Italy, 504-509
- Charters, as parts of the British constitution, 5 10
- Childs, Harwood L, ed, *Propaganda and Dictatorship*, 523 526
- Church and state, in Germany, 422-429, in Italy, 526 531
- Citizenship, in Germany, under Nazi regime, 409 412
- Civil List, in Great Britain, 37 38
- Civil service, in Great Britain, 68 ff, influence of, 78 83, examinations, 87 89, classification, 90 92, recruitment, 94 95, criticism of, 94 95, in France, examinations, 290 291, bureaucratic tendencies of, 290 293, in Germany, purging of, under Nazis, 412-414
- Class struggle, theory of, 554-556
- Code Civil, in France, 340 342
- Collective farming, in Russia, 613-619
- Committee on Ministers' Powers, in Great Britain, 83 86
- Committees, in British House of Commons, 134 ff, on private bills, 138-141, of English county councils, 199 201, system of, in French parliament, 305, criticism of French system of, 315 316
- Common law, in Great Britain, 173-175
- Communism, principles of, 551-556
- Communist Manifesto, 551
- Communist party, in Russia, duties of members of, 560 563, relation of, to Third International, 564-567, leadership, 600 603, in Germany, abolition of, 409
- Compulsory Military Service Act, British, 242 244
- Concordat, Papal, with Italy, 528-529
- Conservative party, in Great Britain, political program of, 161-164
- Consolidated Fund, in Great Britain, 149
- Constitution, of Great Britain, 3-23, British evaluation of, 3-6, the Great Charters, 5-10, and the Bill of Rights, 10 12; legislation, 12-13,

- conventions, 18, custom, 19 21, judicial decisions, 21 23, of French Republic, text, 249 254, characteristics, 254-259, process of amendment, 259 262, reform of, 262-263, of Germany, excerpts from text, 374-382, suspended under Nazis, 397, of Russian Socialist Federated Soviet Republics, text, 575-590
- Conventions, in British constitution, 18
- Cornwall, administrative county of, 197-198
- Corporations Act, in Italy, 509 512
- Corporative state, text of law of, 509 512, Mussolini on, 512-514
- Council, British county, 199 201
- Council of Corporations, in Italy, 515 517
- Council of State, in France, 351-352
- Counties, in Great Britain, 194 ff, number of, 194-195, council, 199 201
- Court of Cassation, in France, 342-343
- Courts, in Great Britain, 172 ff, and Inns of Court, 178, Justice of the Peace, 180, system, diagram of, 181, and the poor, 183 185, House of Lords as a court, 186 191, organization of, 342 343, selection of judges, 346 348, in France, administrative, 348-351
- Crichton, J., and Laski, H. J., on peers as legislators, 102 105
- Crown, British, as a fountain of honor, 97-100
- Custom, in the British constitution, 19 21
- Czechoslovakia, disappearance of, 455 460
- Daladier, Edouard, on war, 646 647
- Dartmouth, municipal borough of, 196 197
- Davidson, Basil, on Italian agriculture, 534 538
- Davis, Elmer, on London, 210 213
- Dean, Vera M., on industrial progress in Russia, 611 613, on the Russian budget, 622 624
- Debt, public, in Great Britain, 151
- Decrees, executive, in Germany, 397, in Italy, 489 491
- Defense council, in Germany, 657 658
- Delegated legislation, in Great Britain, 83 86
- Democratic Alliance, in France, program of, 332 334
- Dicey, A. V., on custom in the British constitution, 19 21
- Dictatorship, in Germany, constitutional basis for, 396 397, Hitler's power, 397 398, suppression of opposition, 409, in Italy, Mussolini, 478 481, use of decrees, 489-491
- Dictatorship of the proletariat, 557 559
- Dissolution, of British parliament, 152-153, of French Chamber of Deputies, 287 289
- Districts, local, in Great Britain, 194 195
- Dominique, P., on French senate, 298 299
- Doumergue, Gaston, on French constitutional reform, 262-263, on dissolution of Chamber of Deputies, 287 289
- Duff Cooper, Alfred, resignation of, 66
- Duranty, Walter, on Stalin, 600 603
- Edward VIII, abdication of, 33-37
- Elections, in Great Britain, 153 ff, registration form, 153, plural voting, 154 157, campaign tactics, 157-160, results, 158, in France, presidential, 264 267, results, 336-337, woman suffrage, 337-339, in Russia, 591 596
- Emergency Powers Act, in Great Britain, 653-655
- Enabling Act, in Germany, 1933, text, 397, extension of, 397

- Engels, Friedrich, and Marx, Karl, the *Communist Manifesto*, 551
- Estimates of expenditure, preparation of, in Great Britain, 145 147
- Farlie, J A, on provisional orders, 141-143
- Fascism, philosophy of, 472-477, party organization, 481-483, leadership, 495 498, relations with church, 527 531
- Federalism, changes of, in Germany, 401 403
- Finance, in Great Britain, 145 ff, influence of bureaucracy on, 78-83, preparation of estimates, 145-147, statement, 147-149, debt, 151, in France, controlled by chamber of deputies, 311, George Peel on, 356-357, in Russia, 623 624
- Finance legislation, in France, 312 315
- Finer, H, on the British civil service, 90 94, on House of Lords, 112 114, on Mussolini, 478-481
- Fischer, Jack, on British trade, 229 234
- Fitzroy, Captain E A, election, as speaker, 117 120
- Five Year Plan, in Russia, 604-613, machinery for planning, 608 611, results, 611 613
- Foreign Office, in Great Britain, 68 70
- Foreign policy, in Great Britain, 235 242, in Germany, 447-455, in Italy, 538 548, in Russia, 634-637
- "Full Powers," granted to French cabinets, 286 287
- George VI, declaration to privy council, 37, on war, 645
- German Republic, establishment of, 373 374
- German Russian Non Aggression Pact, 642 643
- Gibbon, Sir Gwilym, on social security in Great Britain, 218 221
- Gooch, R K, on regionalism in France, 294-297
- Grand Council, of Fascist party, 495-498
- Grandi, Dino, on Italian foreign policy, 538 540
- Grey, Viscount, of Fallodon, on the routine of a minister, 74-78
- Guillotine, in British parliamentary procedure, 134
- Haldane, Lord, on British privy council, 192-193
- Halifax, Viscount, on British foreign policy, 235-242
- Health, programs of, in Germany, 445 447
- Heckling, in British campaigns, 157 160
- Heinberg, John G, on the personnel of French cabinets, 277-282
- Heneman, H J See Pollock, J K
- Hennessy, Josselyn, on the role of the French president, 268 271
- Herbert, A P, on private members' bills, 143 145
- Hindenburg, Paul von, changes caused by death of, 397-398
- Hitler, Adolph, 392-395, speeches, 389-392, assumption of presidency, 398, official title, 398, declaration of war, 648-653
- Home Office, in Great Britain, 70-73
- Honors, granting of, in Great Britain, 97 99
- House of Commons, in Great Britain, 116 ff, relation of Lords to, 19 21, composition of, 116 117, election of speaker, 117-120; question hour, 120 123, spirit of, 123-126, opposition in, 127-129, opening of parliament, 130-132, rules of procedure in, 133-138, daily order of business, 133-134, closure, 135-136; suspension of members, 137, division, 137, procedure on private bills, 139-141, procedure on private members' bills, 143-145, electoral campaigns, 157-160

- House of Lords, in Great Britain, 97 ff, peers in cabinet, 55, creation of peers, 101, legislative activity, 101-103, financial interests represented, 104, defense, 105-106, Bryce Report, 106-109, effect of Parliament Act, 1911, 112-115; proposed reforms, 114-115, as a court, 187-191
- Housing, in Great Britain, 221-223, in Russia, 619-622
- Hutton, Graham, on German economy, 434-439
- Initiative, legislative, in Great Britain, 143, in France, 305
- Inns of Court, in Great Britain, 176-178
- International, Communist, 560-563
- Interpellation, in French parliament, 306-310
- Italy, neutrality of, 653
- Jennings, W I, on cabinet solidarity, 61-63; on parliamentary opposition, 127-129
- Jews, citizenship in Germany, 418-420, decrees against, 421-422
- Joxe, L., on woman suffrage in France, 337-338
- Judges See Courts
- Judicial Committee, of British privy council, 191-193
- Judicial review, in France, 352-354
- Judiciary See Courts
- Jury, in France, 344-346
- Justices of the Peace, in Great Britain, 180
- Kangaroo, closure in British House of Commons, 136
- King, in Great Britain, 24-39, oath of, 24-25, coronation of, 25-28, daily routine of, 28-31, influence of, 31-32; abdication documents, 33-37, civil list, 37-38, in Italy, 484-486
- Kordt, Eric, on the German civil service, 412-414
- Labor, code, in Germany, 442-445, charter of, in Italy, 504-509
- Labour party, in Great Britain, program of, 167-169
- Labour Research, 57-60
- Länder, in Germany, controlled by Nazis, 399-401, constitutional powers of, 401-403
- Laski, H J, on the personnel of the British cabinet, 53-56, on the civil service, 94-95, and Crighton, J, on peers as legislators, 102-105
- Law, common, in Great Britain, 173-175, in France, civil code, 340-342
- Law, criminal, in Russia, 631-634
- Lebrun, Albert, elected as president in France, 264-267
- Legislation, and the British constitution, 14-17
- Lenin, V I, on the proletarian state, 557-558, on duties of members of the Communist International, 560-563
- Lees Smith, H B, on campaigning in Great Britain, 157-160
- Letter patent, 101
- Liberal party, in Great Britain, program of, 164-166
- Lichtenberger, Henn, *The Third Reich*, 418 ff
- Littlechampton, urban district of, 198
- Llewellyn-Jones, on the common law in Great Britain, 173-175
- Local government, in Great Britain, 194-214, number of authorities, 194-195, typical municipal borough, 196-197, county council organization, 199-202, municipal trading, 203-205, central control over, 205-207, government of London, 209-213, criticism of, 213-214, in France, demand for decentralization, 296, in Germany, 414-416, in Italy, 499-502
- London, government of, 209-213
- Lords of Appeal, in Great Britain, 186-191

- Low, S, on amateurs as ministers, 73 74
- Lutz, H L, on British financial policy, 150 151
- MacDonagh, M, on the routine of the king, 28-31, on the formation of the cabinet in Great Britain, 42 47, on private bills, 139 141, on the House of Lords as a court of appeal, 186 191
- Magna Carta, 59
- Marx, Fritz Morstein, on German local government, 414 416
- Marx, Karl, on theory of surplus value, 551-552
- Miller, Jacob, on economic planning in Russia, 604 611
- Millerand, Alexandre, forced resignation of, 271 273
- Ministers of the Crown Act, 48 53
- Ministry, in France, position of premier, 274 277, personnel, 277 281, stability, 282 285, relation to parliamentary committees, 305 306, in Italy, 489 491, for Ministry in Great Britain, see Cabinet
- Ministry, economic, in Great Britain, 650 657
- Mitchell, J, on British local government, 207 208
- Money, Sir Leo C, on population in Great Britain, 223 225
- Money bills, classification of, in British House of Commons, 112
- Moore, Harnet, on criminal law in Russia, 631-634
- Morrison, Herbert, on London County Council, 199-201
- Mur, R, on the influence of the bureaucracy in Great Britain, 78 83
- Mullins, Claud, on justices of the peace in Great Britain, 180
- Municipal government, in Great Britain, in London See Local Government
- Municipal trading, in Great Britain, 203 205
- Mussolini, 478-481, on philosophy of Fascism, 472 478, on corporative state, 503 504, on foreign policy, 540 543
- National Assembly, in France, constitutional basis of, 250, amending authority, 259-262, in Germany, formation of Republican constitution by, 373 374
- National Council of Corporations, in Italy, 491 495
- National Socialist party, in Germany, aims of, 385-388, official relation of, to state, 399 401, propaganda activities of, 407-408, views on race, 418, attitude toward church, 423-429
- Neutrality, Italy's declaration of, 653
- "New Deal," in France, 357-358
- Newspapers, control of, in Germany, 405-407
- Non Aggression Pact, German Russian, 642 643
- Oath, of the British king, 24 25, of a privy councillor, 47 48
- Organic laws, in France, 249
- Osborne Judgment, 21-23
- Papal State, relations with Italian government, 526 531
- Parish, number in British local government, 195
- Parliament, in Great Britain, legal supremacy of, 12 13, power to amend constitution, 14-17, delegation of legislative power, 83 86, rules of procedure, 133 138, see House of Commons, House of Lords, Chamber of Deputies, Senate, Reichstag, etc
- Parliament Act, 1911, 110 112
- Parties, political, in Great Britain, 152-171, Conservative, principles and program, 161-164, Liberal program, 164-167, Labour program, 167-171, in France, 318 336, party psychology, 318-325, instability, 324-325; Radical Republican and

- Radical Socialist, constitution, 326
328, Republican Federation, constitution, 328-330, program, 330-332, Democratic alliance, program, 332-334, Socialist party program, 334-336, in Germany, rise of Nazi program, 385, in Italy, Fascist organization, 481-483, in Russia, Communist organization, 560-563, principles, 551-571, leadership, 600-603
- Peel, George, on French finance, 356-357
- Peers, in Great Britain, creation of, 101, as legislators, 101-103, post war governments and, 101
- Pennachio, A. L., on the corporative state, 504
- Perkins, Frances, on social security in France, 364-366
- Personnel, of the cabinet in Great Britain, 53-56, of the cabinet in France, 277-281
- Petrie, Charles, on the Italian king, 484-485
- Philip, P. J., on the French Chamber of Deputies, 300-302
- Pius XI, on church and state in Germany, 427-429
- Planning, economic, in Russia, 604-611
- Plural voting, in Great Britain, 154-156
- Podestà, in Italy, 500
- Pomcaré, Raymond, on the French parliament, 315-317
- Poland, and Germany, 461-465
- Political Bureau, in Russia, 625
- Pollock, J. K., and Heneman, H. J., *The Hitler Decrees*, 407-409
- Popular Front, in France, 356-357
- Population, in Great Britain, 223-225, in France, 368-370
- Por, Odon, on Italian Corporations, 517-520
- Premier See Cabinet, Prime minister, Ministry
- President, in France, 264-273, election, 264-267, duties, 268-271, constitutional basis of powers, 250, qualifications, 270, and politics, 272-273, in German Republic, merged with chancellorship, 397-398
- Press, control of, in France, 661
- Prime minister, in Great Britain, 40-42, selection of colleagues, 42-47, see Cabinet, Ministry
- Privy Council, oath of members, 47-48, Judicial Committee of, 191-193
- Proclamation, dissolving British parliament, 152-153
- Propaganda, British office of, 239-242, in Germany, 407-408, in Italy, 523-526
- Purge, in Germany, of civil service, 412-414, in Russia, 625-631
- Questions, in British parliament, 120-125, see Interpellation
- Radical Republican and Radical Socialist party, in France, constitution, 326-328
- Raikes, Hon. Henry, on the House of Lords, 105-106
- Referendum, law of, in Germany, 403-404
- Regionalism, in France, 293-297
- Registration, of voters, in Great Britain, 155
- Reichstag, in German Republic, constitutional provisions for, 378-379
- Reiss, R. L., on housing in Great Britain, 221-223
- Republican Federation, in France, constitution, 328-330, program of, 330-332
- Roberts, Stephen H., on Hitler, 392-395, on German foreign policy, 448-450
- Roche, L. M. E., on French civil service, 290-293
- Rome-Berlin Axis, 545-548
- Rosso, August, on Italian empire, 544-545
- Rules, of British House of Com-

- mons, 133 138, of French Chamber of Deputies, 304-306
- Russell, E. John, on farming in Russia, 614-619
- Samuel, Sir Herbert, on cabinet solidarity in Great Britain, 61 63, on London county council, 199 201
- Second chamber See House of Lords, Senate, Parliament, etc
- Secretariat, of Communist party, 600-603
- Senate, in France, 298 299, constitutional provisions for, 251
- Shaw, Lord, *The Osborne Judgment*, 21 23
- Slovakia, treaty with Germany, 460 461
- Snowden, Philip, on plural voting, 154 156
- Social security, in Great Britain, 217 221; in France, 364-366
- Socialist party, in France, program of, 334-336
- Speaker, of British House of Commons, election of, 117 120
- Spencer, H. R., on Fascism in Italy, 469 472
- Stalin, Joseph, 600 603, on world revolution, 567-571, on Russian foreign policy, 634 637
- State Planning Commission, in Russia, 608 611
- Statute of Westminster, 14 17
- Statutes, as parts of the British constitution, 14-17
- Steiner, H. Arthur, on Fascist party in Italy, 481-483, on Italian local government, 499 502
- Suffrage, for women, in France, 337-339
- Surplus value, theory of, 551-552
- Syndicates, in Italian corporative state, 504 509
- Tardieu, André, on finance legislation in France, 312-315
- Taxes, income from, in Great Britain, 657
- Third International, relation of, to Communist party, 564 567
- Treasury, in Great Britain, control over estimates, 145-147
- Treasury Bench, in House of Commons, 134
- Twenty-five Points, of National Socialist party, 385-388
- Tyndale, O. S., on the French courts, 342 346, on Council of State, 351-352
- Union of Socialist Soviet Republics, constitution of, 575-590
- Vatican, agreement with Italian government, 527 529
- Veto, royal, disuse in Great Britain, 20
- Volpe, Gioucchino, on Italian foreign policy, 543-544
- Voting, list, in Great Britain, 153-154, plural, 154-157
- War cabinet, in Great Britain, 655 656
- War organization, 658 661
- Weimar Constitution, excerpts from, text of, 374 384
- Wilkinson, Ellen, on delegated legislation in Great Britain, 86 87
- Williams Ellis, C., on corruption in local government, 213-214
- Wilson, P. A. See Carr-Saunders, A. M.
- Woman suffrage, in France, 337 339
- Zurcher, Arnold J., on Italian government, 523-526